



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict-of-interest codes, will review the proposed/amended conflict-of-interest codes of the following:

CONFLICT-OF-INTEREST CODES

AMENDMENT

MULTI-COUNTY: **Turlock Irrigation District**

A written comment period has been established commencing on **September 25, 2009**, and closing on **November 9, 2009**. Written comments should be directed to the Fair Political Practices Commission, Attention Sarah Olson, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict-of-interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict-of-interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Direc-

tor of the Commission, relative to review of the proposed conflict-of-interest code(s). Any written comments must be received no later than **November 9, 2009**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict-of-interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict-of-interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict-of-interest code(s) should be made to Sarah Olson, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT-OF-INTEREST CODES

Copies of the proposed conflict-of-interest codes may be obtained from the Commission offices or the re-

spective agency. Requests for copies from the Commission should be made to Sarah Olson, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1859. TAKING, TESTING AND REPORTING OF SAMPLES

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1859, Taking, Testing and Reporting of Samples. The proposed amendment adds the Equine Medical Director to the list of those who may direct that urine, blood or other official test samples shall be taken, and states that the Equine Medical Director is among those who may approve the taking of official test samples in areas other than the approved detention area. In addition, the proposed amendment to Rule 1859 deletes subsection 1859(b), which requires that official test samples shall be discarded immediately if the official laboratory fails to detect a prohibited drug substance in the official test samples.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, November 17, 2009**, or as soon after that as business before the Board will permit, at **Golden Gate Fields Race Track, 1100 Eastshore Highway, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on November 9, 2009**.

All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: sections 19420, 19440, 19562 and 19577, Business and Professions Code. Reference cited: sections 19401, 19440 and 19577, Business and Professions Code.

Business and Professions Code sections 19420, 19440, 19562 and 19577 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19401, 19440 and 19577 of the Business and Professions Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19401 states the intent of this chapter is to allow pari-mutuel wagering on horse races, while assuring protection of the public; encouraging agriculture and the breeding of horses in this state; supporting the network of California fairs; providing for maximum expansion of horse racing opportunities in the public interest; and providing uniformity of regulation for each type of horse racing. Business and Professions Code section 19420 provides jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State. Business and Professions Code section 19577 provides that any blood or urine sample required by the Board to be taken from a horse that is entered in any race shall be divided

or taken in duplicate, if there is sufficient sample available after the initial test sample and the secondary sample shall be referred to as the split sample. All samples immediately become and remain the property of the Board. The Board shall adopt regulations to ensure the security of obtaining and testing of all samples. The Board shall adopt regulations to establish policies, guidelines, and procedures that include a split sample process related to total carbon dioxide testing.

Rule 1859 provides that urine, blood or other test samples shall be taken under the direction of the official veterinarian or his or her designee. All samples shall be taken in a detention area approved by the Board, unless the official veterinarian approves otherwise. Subparagraph 1859(b) states if the official laboratory fails to detect in the official test samples, a prohibited drug substance, as defined in this article, the official sample shall be discarded immediately. The Board has determined that it wishes to add the Equine Medical Director as an official who may direct that urine, blood or other test samples be taken. Additionally, the proposed amendment to Rule 1859 deletes subparagraph 1859(b), which requires that official test samples be discarded immediately if the official laboratory fails to detect a prohibited drug substance. Subparagraph 1859(b) conflicts with subparagraph 1859(c), which states the Board has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. Deleting subparagraph 1859(b) clarifies the Board's ability to maintain samples.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1859 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1859 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1859 does not have an effect on small businesses because it does not apply to small businesses. The Rule lists officials who may direct that official blood and urine tests samples be taken. Rule 1859 also specifies that the Board has the authority to direct the official laboratory to retain and preserve by freezing test samples for future analysis.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
E-mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rule-

making process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes clearly marked — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 4. CALIFORNIA HORSE RACING BOARD

NOTICE OF PROPOSAL TO AMEND RULE 1843.6. TOTAL CARBON DIOXIDE TESTING RULE 1858. TEST SAMPLE REQUIRED

The California Horse Racing Board (Board) proposes to amend the regulations described below after

considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1843.6, Total Carbon Dioxide Testing, and Rule 1858, Test Sample Required of the California Code of Regulations, Title 4, Division 4. The proposed amendment to Rule 1843.6 would add the Equine Medical Director and the stewards to those who may direct a veterinarian licensed by the board or a registered veterinary technician licensed by the Board to collect blood sample(s) from a horse for the purpose of testing for total carbon dioxide concentrations. The proposed amendment to Rule 1843.6 also adds the Equine Medical Director to the list of persons who may select any horse on a facility under the jurisdiction of the Board for total carbon dioxide testing. The proposed amendment to Rule 1858 adds the Equine Medical Director to the list of those who may designate a horse or horses for official blood or urine testing. The proposed amendment to Rule 1858 also states that no owner, trainer or other person having the care of a horse, shall refuse to submit it for testing when directed by the Equine Medical Director.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Tuesday, November 17, 2009**, or as soon after that as business before the Board will permit, at **Golden Gate Fields Race Track, 1100 Eastshore Highway, Berkeley, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory actions to the Board. The written comment period closes at **5:00 p.m. on November 9, 2009**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
Fax: (916) 263-6022
E-mail: HaroldC@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited Rule 1843.6: Sections 19420, 19440, 19580 and 19582.5, Business and Professions Code.

Reference cited Rule 1843.6: Sections 19581 and 19582, Business and Professions Code.

Business and Professions Code sections 19420, 19440, 19580 and 19582.5 authorize the board to adopt the proposed regulation, which would implement, interpret, or make specific sections 19581 and 19582, of the Business and Professions Code.

Authority cited Rule 1858: Sections 19440, 19562 and 19580, Business and Professions Code. Reference cited Rule 1858: Section 19580(b), Business and Professions Code. Sections 337f, 337g, and 337h, Penal Code.

Business and Professions Code sections 19440, 19562 and 19580 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific section 19580(b), Business and Professions Code, and Penal Code sections 337f, 337g, and 337h.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Business and Professions Code section 19420 provides jurisdiction and supervision over meetings in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. Business and Professions Code section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State. Business and Professions Code section 19580 states the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in the state. Those policies, guidelines, and penalties shall include, at a minimum, the provisions set forth in this article. Business and Professions Code section 19580(b) states it is the intent of the Legislature that the Board, in its testing efforts to determine illegal or excessive use of substances, recognize the greater importance of conducting complete and thorough testing of a lesser number of samples in preference to conducting less thor-

ough testing on a greater number of samples. Business and Professions Code section 19581 provides that no substance of any kind shall be administered by any means to a horse after it has been entered to race in a horse race, unless the Board has, by regulation, specifically authorized the use of the substance and the quantity and composition thereof. The Board may require that the official veterinarian approve, in writing, the administration of those substances in accordance with the regulations of the Board. Any medication or equipment used to dispense medication that is located within the inclosure is subject to search and inspection at the request of any Board official. Business and Professions Code section 19582 provides that violations of section 19581, as determined by the Board, are punishable as set forth in regulations adopted by the Board. Business and Professions Code section 19582.5 provides that the board may adopt regulations that prohibit the entry in a race of a horse that tests positive for a drug substance in violation of section 19581.

Penal Code section 337f provides that any person who does any of the following is punishable by a fine not exceeding five thousand dollars (\$5,000), or by imprisonment in the state prison or in a county jail not exceeding one year, or by both that fine and imprisonment: (1) Influences, or induces, or conspires with, any owner, trainer, jockey, groom, or other person associated with or interested in any stable, horse, or race in which a horse participates, to affect the result of that race by stimulating or depressing a horse through the administration of any drug to that horse, or by the use of any electrical device or any electrical equipment or by any mechanical or other device not generally accepted as regulation racing equipment, or so stimulates or depresses a horse. (2) Knowingly enters any horse in any race within a period of 24 hours after any drug has been administered to that horse for the purpose of increasing or retarding the speed of that horse. (3) Willfully or unjustifiably enters or races any horse in any running or trotting race under any name or designation other than the name or designation assigned to that horse by and registered with the Jockey Club or the United States Trotting Association or willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse is entered or raced in any running or trotting race under any name or designation other than the name or designation duly assigned by and registered with the Jockey Club or the United States Trotting Association. (b) For purposes of this section, the term "drug" includes all substances recognized as having the power of stimulating or depressing the central nervous system, respiration, or blood pressure of an animal, such as narcotics, hypnotics, benzedrine or its derivatives, but shall not include recognized vitamins or supplemental feeds approved by or in compliance with the rules and

regulations or policies of the California Horse Racing Board. Penal Code section 337g states the possession, transport or use of any local anaesthetic of the cocaine group, including but not limited to natural or synthetic drugs of this group, within the racing inclosure is prohibited, except upon a bona fide veterinarian's prescription with complete statement of uses and purposes of same on the container. A copy of such prescription shall be filed with the stewards, and such substances may be used only with approval of the stewards and under the supervision of the veterinarian representing the board. Penal Code section 337h states any person who, except for medicinal purposes, administers any poison, drug, medicine, or other noxious substance, to any horse, or other livestock, entered or about to be entered in any race or upon any race course, for competition for prize, reward, purse, premium, stake, sweepstakes, or other reward, or who exposes any poison, drug, medicine, or noxious substance, with intent that it shall be taken, inhaled, swallowed, or otherwise received by any of these animals or other livestock, with intent to impede or affect its speed, endurance, sense, health, physical condition, or other character or quality, or who causes to be taken by or placed upon or in the body of any of these animals or other livestock, entered or about to be entered in any race or competition described in this section any sponge, wood, or foreign substance of any kind, with intent to impede or affect its speed, endurance, sense, health, or physical condition, is guilty of a misdemeanor.

Rule 1843.6, subsection (a), provides that the official veterinarian may direct a veterinarian licensed by the Board or a registered veterinary technician licensed by the Board to collect blood sample(s) from a horse for the purpose of testing for total carbon dioxide (TCO₂) concentrations. In addition, subsection 1843.6(b) states that the stewards or the official veterinarian may select any horse on a facility under the jurisdiction of the Board for TCO₂ testing. However, the Board recognizes that the official veterinarian is not the only race-track official who may have a reason to direct that blood samples be collected for the purpose of TCO₂ testing. There may be occasions when the stewards or the Board's Equine Medical Director have cause to direct that blood samples be collected, or that the Equine Medical Director may wish to select a horse or horses for such testing. The Board has determined that it wishes to add the Equine Medical Director and the stewards to those who are authorized to direct the collection of blood samples for the purpose of TCO₂ testing, and to add the Equine Medical Director as one who may select a horse or horses for TCO₂ testing. The proposed amendment to Rule 1843.6 clarifies the Board's intent regarding officials who can take such actions under Rule 1843.6.

Rule 1858 provides that the stewards or the official veterinarian shall daily designate for testing not less than six or more than nine horses. In addition, Rule 1858 states that every horse within the inclosure or entered in any race is subject to testing when directed by the stewards or the official veterinarian. The Board has determined that it wishes to add the Equine Medical Director to those who are authorized to designate any of the six to nine horse that are daily chosen for testing, or to direct that a horse within the inclosure or entered in any race be tested. The proposed amendment to Rule 1858 clarifies the Board's intention with regards to whom it wishes to have such authority under the regulation.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1843.6 and 1858 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1843.6 and 1858 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1843.6 and 1858 does not have an effect on small businesses because it does not apply to small businesses. The Rules list officials who may direct that official blood and urine tests samples be taken from horses entered to race or from horses on the grounds of a facility under the jurisdiction of the Board.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine

that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed texts of the regulations, the initial statement of reasons, the modified texts of the regulations, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
Policy and Regulation Unit
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
E-mail: HaroldC@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Colleen Germek, Regulation Analyst
Telephone: (916) 274-6049

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, at the above address, as of the date this notice is published in the Notice Register. The rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact person, at the address, phone numbers, or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the mod-

ified texts — with changes clearly marked — shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulations in their current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB SITE ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed texts of the regulations, and the initial statement of reasons. The Board's web site address is www.chrb.ca.gov.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF INTENTION TO AMEND THE CONFLICT-OF-INTEREST CODE OF THE DEPARTMENT OF INSURANCE

NOTICE IS HEREBY GIVEN that the Department of Insurance, pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendments to its Conflict-of-Interest Code. The purpose of these amendments is to implement the requirements of sections 87300 through 87302, and section 87306 of the Government Code.

The Department of Insurance proposes to amend its Conflict-of-Interest Code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code.

This amendment adds Software Specialists I, II and III, and all Assistant Information Systems Analysts in the Information Technology Division; Labor Relations Staff in the Human Resources Division; Office Technicians in the Licensing Services Division; and makes other technical changes to reflect the current organizational structure of the Department. Copies of the

amended code are available and may be requested from the Contact Person set forth below.

Any interested person may submit written statements, arguments, or comments relating to the proposed amendments by submitting them in writing no later than November 2, 2009, or at the conclusion of the public hearing, if requested, whichever comes later, to the Contact Person set forth below.

At this time, no public hearing has been scheduled concerning the proposed amendments. If any interested person or the person's representative requests a public hearing, he or she must do so no later than October 19, 2009, by contacting the Contact Person set forth below.

The Department of Insurance has prepared a written explanation of the reasons for the proposed amendments and has available the information on which the amendments are based. Copies of the proposed amendments, the written explanation of the reasons, and the information on which the amendments are based may be obtained by contacting the Contact Person set forth below.

The Department of Insurance has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

In making these proposed amendments, the Department of Insurance has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective and less burdensome to affected persons than the proposed amendments.

All inquiries concerning this proposed amendment and any communication required by this notice should be directed to:

Patrick Applewhite
300 Capitol Mall, Suite 1300
(916) 492-3333
applewhitep@insurance.ca.gov

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to adopt Sections 205.00, 205.02, 205.04, 205.06, 205.08, 205.10, 205.12 and 205.14 in Chapter 1, Division 1, Article 3.3 of Title 13, California Code of Regulations, relating to the Year of Manufacture (YOM) Program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 p.m., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested party or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 p.m., **NOVEMBER 9, 2009**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Vehicle Code Section 1651, in order to implement, interpret, or make specific Vehicle Code sections 1652 and 5004.1.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Department of Motor Vehicles (department) proposes to adopt Sections 205.00, 205.02, 205.04, 205.06, 205.08, 205.10, 205.12, and 205.14 in Article 3.3, Division 1, Chapter 1 of the California Code of Regulations, relating to the Year of Manufacture (YOM) Program.

Assembly Bill (AB) 462 (Chapter 497, Statutes of 2007) amended Vehicle Code section 5004.1 relating to Model Year Date License Plates, commonly known as

the Year of Manufacture (YOM) Program. The amendments allow a 1969 or older model passenger vehicle or a 1972 or older model commercial vehicle to utilize previously-issued California license plates that correspond to the model year of the vehicle when it was originally produced. The department, under authority granted by Vehicle Code sections 1651 and 5110, is proposing regulations to specify which license plate configurations will be acceptable for registration under the YOM program. Vehicle Code section 5004.1 authorizes the Model Year Date License Plates, commonly referred to as the Year of Manufacture or YOM Program. Vehicle Code section 1652 allows the department to prescribe forms.

DOCUMENTS INCORPORATED BY REFERENCE

The following form is incorporated by reference in Sections 205.02, 205.12 and 205.14. This form is not published in the California Code of Regulations because it would be impractical and cumbersome to publish these documents in the California Code of Regulations.

- Year of Manufacture (YOM) License Plate Application, form REG 352 (REV 2/2009)

This form will be made available during the public comment period on the department's internet website, in any field office, or by calling the department's toll free telephone number at (800) 777-0133.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: Private Persons will be required to pay a yearly fee, in addition to regular registration fees, to renew the special license plate. There is no cost impact to businesses.
- Effects on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability

of California businesses to compete with businesses in other states.

- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the State of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. These provisions only apply to individuals who are applying for Year of Manufacture license plate registration.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons that the proposed action.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Randi Calkins
Department of Motor Vehicles
Legal Affairs Division
P.O. Box 932382, MS C-244
Sacramento, CA 94232-3820
Telephone: (916) 657-8898
Facsimile: (916) 657-1204
E-Mail: RCalkins@dmv.ca.gov

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Maria Grijalva, Regulations Analyst
Telephone: (916) 657-9001

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov/about/lad/regactions.htm.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 16. BOARD OF PSYCHOLOGY

Department of Consumer Affairs

NOTICE IS HEREBY GIVEN that the Board of Psychology (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Doubletree Hotel San Diego Downtown, 1646 Front Street, Skyline Ballroom I and II, San Diego, CA 92101, at 9:00 a.m., or as soon as practicable thereafter, on November 14, 2009. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, November 9, 2009, or must be received by the Board at the hearing. The

Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2920.1, 2930 and 2982 of the Business and Professions Code, and to implement, interpret or make specific Sections 2960, 2960.6, 2963, 2982, 2984, 2986 and 2988 of the Business and Professions Code, and Sections 11105(b)(10) and 11105(e) of the Penal Code, the Board is considering changes to Division 13.1 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board is proposing to add Sections 1381.7, 1381.8 and 1381.9 of the CCR. This proposed rulemaking pertains to the mandatory submission of fingerprints to the Department of Justice (DOJ) for a state and federal level criminal offender record information (CORI) search and the ability of the Board to bring disciplinary action against a licensee or registrant that fails to comply with the fingerprinting requirements therein.

Business and Professions Code (BPC) Section 144 requires an applicant to furnish to specified agencies, including the Board of Psychology (Board), a full set of fingerprints for the purpose of conducting criminal history record checks. Additionally, this section allows the Board to obtain and receive criminal history information from the Department of Justice (DOJ) and the United States Federal Bureau of Investigation (FBI).

The Board began requiring all applicants for licensure and registration to submit fingerprint cards for the purpose of conducting criminal history background investigations through DOJ and the FBI in the early to mid 1970's. The fingerprinting of applicants allows the Board a mechanism to enhance public protection by conducting a more thorough screening of applicants. Individuals licensed or registered before this were not required to submit fingerprints to the Board.

The proposed regulation will require all Board licensees and registrants for whom an electronic record of his or her fingerprints does not exist in the DOJ's criminal offender record information database to successfully complete a state and federal level criminal offender record information search conducted through the DOJ.

Specifically, the proposed regulations would:

- Require all licensees on or after July 1, 2010 who have not previously submitted fingerprints to the DOJ or for whom an electronic record of the submission of the fingerprints does not exist with DOJ, to complete a state and federal level criminal offender record information search conducted through the DOJ before his or her license renewal date. This proposal requires applicants to disclose, at the time of renewal, whether the fingerprints have been previously submitted to the Board. This provision is also applicable to licensees upon reactivation or reinstatement of an expired license in addition to any other requirements. The purpose of this provision is to ensure the Board receives criminal background and subsequent conviction information on all Board registrants and licensees in order to protect the public from unprofessional practitioners and fully implement the Board's mandate to enforce the unprofessional conduct statutes of Board licensing laws (BPC 2960, 2960.6, 2961 and 2963)).
- Exempts from the requirements of this proposed regulation, licensee or registrants who are renewing as inactive, or who are actively serving in the United States military outside the country. The purpose of this provision is to allow those licensees or registrants not in active practice to only meet the requirement before returning to active practice with the public.
- Requires all licensees, as a condition of renewal, to disclose on the renewal form whether they have been convicted of any violation of the law in this or any other state, in the United States or its territories, military court, or other country since he or she last renewed his or her license. The purpose of this provision is to ensure the Board receives subsequent conviction information in order to protect the public from unprofessional practitioners who have been convicted of any violation of law, excluding traffic infractions under \$300.00 not involving alcohol, a dangerous drug, or controlled substance since their last renewal date. The purpose of this provision is to ensure the Board receives subsequent conviction information in order to protect the public from unprofessional practitioners who have been convicted of any violation of law, as specified, since their last renewal date.
- Requires all licensees, as a condition of renewal, to disclose on the renewal form whether they have had a license disciplined by a government agency or other disciplinary body, including, but not limited to suspension, revocation, voluntary

surrender, probation, reprimand, or any other restriction placed on a license held by any licensee of the Board since he or she last renewed his or her license. The purpose of this provision is to ensure the Board receives subsequent discipline information in order to protect the public from unprofessional practitioners who have been disciplined by other jurisdictions since their last renewal date.

- Makes an applicant ineligible to renew a license or registration, for failure to provide all required information specified in proposed section 1381.7 on or before the date required for renewal of the license, and is a ground for discipline by the Board if an applicant fails to comply with this section. The purpose of this provision is to require applicants, who have not previously been fingerprinted, to submit fingerprints prior to renewal of the license or registration in order to continue practicing in California.

Business and Professions Code section 2920.1 states that the "protection of the public shall be the highest priority for the Board of Psychology in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." The purpose of the proposed regulatory changes is to ensure that the Board holds up its mandate to protect the public in accordance with section 2920.1. In order to protect the public from incompetent, unethical and unprofessional practitioners, it is necessary for the Board to be informed of past and current criminal convictions and disciplinary actions that are substantially related to the qualifications, functions, or duties of their professional service for which they are licensed. The unprofessional conduct statutes of Board licensing law (BPC 2960, 2960.6 and 2963) allow the board to deny a license or a registration, or suspend or revoke a license or registration for unprofessional conduct, including the conviction of a crime substantially related to the qualifications, functions or duties of a licensee or registrant. In order to fully implement the unprofessional conduct statutes that require the Board to discipline a license or registrant that has been convicted of a crime substantially related to the qualifications, functions, or duties of their professional service, the Board must receive all information related to those criminal convictions or disciplinary actions.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies:

None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

N/A.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The current processing fees associated with LiveScan fingerprinting are \$32.00 for DOJ and \$19.00 for FBI, with some Live Scan operators charging additional fees for “rolling” fingerprints and/or administrative processing. An additional \$10.00 fee may be charged for expedited processing by DOJ. Applicants are responsible to pay all fees associated with the fingerprint process. The Board estimates that there are approximately 875 licensees that have not been fingerprinted through DOJ, and that a majority of these licensees are either retired or no longer practicing.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Psychology at 2005 Evergreen Street, Suite 1400, Sacramento, California 95815.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Linda Kassis
Address: 2005 Evergreen Street,
Suite 1400
Sacramento, CA 95815
Telephone No.: (916) 263–0712
Fax No.: (916) 263–2697
E-Mail Address: Linda_kassis@dca.ca.gov

The backup contact person is:

Name: Jeff Thomas
Address: 2005 Evergreen Street,
Suite 1400
Sacramento, CA 95815
Telephone No.: (916) 263–1617
Fax No.: (916) 263–2697
E-Mail Address: jeff_thomas@dca.ca.gov

Web site Access: Materials regarding this proposal can be found at www.psychboard.ca.gov.

**TITLE 16. BOARD OF REGISTERED
NURSING**

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (hereinafter referred to as “Board”)

is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Board of Registered Nursing
1625 N. Market Blvd., S-102
First Floor Hearing Room
Sacramento, CA 95834**

**November 9, 2009
9:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on November 9, 2009. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2715 of the Business and Profes-

sions Code (Code), and to implement, interpret or make specific Sections 2815, 2815.1, 2815.5, 2816, 2830.7, 2831, 2833, 2836.3, and 2838.2 of said Code, the Board is considering changes to Division 14 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend Section 1417.

Existing laws authorize the Board to charge fees for initial licensure and certification applications; temporary licenses; interim permits; license and certificate renewals; delinquent renewals; and returned checks. The Board is a self-supporting, special fund agency that generates its revenues from licensing fees. The fees are set at the minimum level of the range established in Sections 2815 and 2838, and became effective July 1, 1991. The Board is proposing to increase fees as detailed in the table on page 2. The fee increases apply to renewal of licenses and certificates that expire after July 1, 2010, and to all other fees effective July 1, 2010. The increase in fees is necessary to enable the Board to more effectively protect consumers through enhancement of the Board's enforcement functions, and to maintain a minimum four (4) month fund reserve for the next three (3) years. The proposal also adds clinical nurse specialist's fee information to the regulation, and makes minor technical and grammatical changes.

| FEES | EXISTING | PROPOSED |
|---|----------|----------|
| Application fee for licensure by examination | \$75 | \$150 |
| Application fee for licensure by endorsement | \$50 | \$100 |
| Biennial license renewal fee* | \$75 | \$150 |
| Penalty fee for failure to timely renew a license | \$37 | \$75 |
| Penalty fee for check returned unpaid | \$15 | \$30 |
| Interim permit fee | \$30 | \$50 |
| Temporary license fee | \$30 | \$50 |
| Biennial nurse-midwife certificate renewal fee | \$50 | \$75 |
| Penalty fee for failure to timely renew a nurse-midwife certificate | \$25 | \$37 |
| Biennial nurse-anesthetist certificate renewal fee | \$50 | \$75 |
| Penalty fee for failure to timely renew a nurse-anesthetist certificate | \$25 | \$37 |
| Application fee for clinical nurse specialist certificate** | \$75 | \$75 |
| Biennial clinical nurse specialist certificate renewal fee** | \$50 | \$75 |
| Penalty fee for failure to timely renew a clinical nurse specialist certificate** | \$25 | \$37 |

*With the proposed fee increase, registered nurses will pay \$160 at the time of license renewal. The fee includes a \$10 assessment for the RN Education Fund.

**Clinical nurse specialist fees are based on statute, and are not included in existing regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The proposed fee increases affect individuals. The affected individuals are the approximate: 52,000 applicants for initial registered nurse licensure (42,000 by examination and 10,000 by endorsement); and 167,500 registered nurses renewing their licenses, and 2050 renewing their Board–issued certificates. The cost impact on the individual varies dependent on the type of application, i.e., initial licensure, renewal of a license, or renewal of certificate. The increase in fees ranges from \$12.00 to \$75.00 and is detailed in the above table. The Board estimates revenues will increase approximately \$16,800,000 annually from the fee increases. Approximately \$13,508,000 will be used to enhance the Board’s enforcement functions, and the remainder to maintain a minimum four (4) month fund reserve for the next three (3) years.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations will not affect small businesses. The proposed amendments affect individual applicants for licensure as a registered nurse and registered nurses renewing a license or Board–issued certificate.

CONSIDERATION OF ALTERNATIVES

The Board has determined that no reasonable alternative it considered to the regulation or that has otherwise

been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above–mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Board’s website, www.rn.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Alcidia Valim
Address: 1625 N. Market Blvd.,
Suite N–217
Sacramento, CA 95834
Telephone No.: 916–574–7684
Fax No.: 916–574–7700
E–Mail Address: alcidia_valim@dca.ca.gov

The backup contact person is:

Name: Geri Nibbs
 Address: 1625 N. Market Blvd.,
 Suite N-217
 Sacramento, CA 95834
 Telephone No.: 916-574-7682
 Fax No.: 916-574-7700
 E-Mail Address: geri_nibbs@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.

TITLE 16. BOARD OF REGISTERED NURSING

DEPARTMENT OF CONSUMER AFFAIRS

NOTICE IS HEREBY GIVEN that the Board of Registered Nursing (hereinafter "Board") is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Board of Registered Nursing
 1625 N. Market Blvd., S-102
 First Floor Hearing Room
 Sacramento, CA 95834**

**November 9, 2009
 10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on November 9, 2009. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 2715 and 2786(b) of the Business and Professions Code, and to implement, interpret or make specific Sections 2786, 2786.6, and 2788 of said Code, the Board is considering changes to Division 14 of Title 16, Article 3, of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Amend sections 1420, 1421, 1422, 1423, 1424, 1425, 1425.1, 1426, 1427, 1428, 1428.6, 1429, and 1432 (previously 1430); adopt section 1426.1, new section 1430, and 1431.

The Board has statutory authority to approve and regulate preclicensure nursing programs in California. Accordingly, the Board adopted the education regulations found in Article 3, California Code of Regulations, Title 16, Division 14, to interpret, implement, and make specific Business and Professions Code, Article 4, "Nursing Schools." The regulations delineate the requirements for the administration and organization of the nursing program; director, assistant director, and faculty qualifications and responsibilities; curriculum; and clinical facilities. The regulations were last amended in 1985, and the Board is proposing amending all sections of the existing regulations and adopting three (3) new sections.

The primary purpose of the regulatory proposal is to ensure that Board-approved preclicensure programs meet minimum educational standards and prepare students who have the requisite knowledge, skills and abilities to practice safely and competently at the entry level upon completion of the program. The proposed regulations 1) reflect changes in nursing education and practice, technology, and the health care delivery systems that have occurred since the regulations were last amended; 2) codify existing Board policies and procedures, including incorporating by reference several existing Board documents and forms; 3) provide clearer direction and guidance for institutions planning to start a preclicensure nursing program; 4) clarify and strengthen the requirements pertaining to director, assistant director and faculty qualifications and responsibilities, clinical facilities, and curriculum, 5) require nursing programs to maintain a minimum 75% pass rate for first time licensing examination candidates; 6) set forth requirements for granting students credit for previous education or other acquired knowledge in the field of nursing; and 7) add a preceptorship course section.

The following BRN documents and forms are incorporated by reference:

1. Instructions for Institutions Seeking Approval of New Preclicensure Registered Nursing Program (EDP-P-I-01, Rev 2/09)
2. Facility Verification Form (EDP-P-I-01, Rev 2/09)
3. Criteria & Guidelines for Self-Study (EDP-R-03, Rev 2/09)
4. Faculty Qualifications and Changes-Explanation of CCR section 1425 (EDP-R-02, Rev 2/09)

5. Faculty Remediation Guidelines (EDP-R-08, Rev 2/09)
6. Faculty Approval/Resignation Notification form (EDP-P-02, Rev 2/09)
7. Director or Assistant Director Approval form (EDP-P-03, Rev 2/09)

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: None

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses because they do not operate precicensure nursing programs.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from upon request from the person designated in the Notice under Contact Person or by accessing the Board's website, www.rn.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Alcidia Valim
Address: 1625 N. Market Blvd.,
Suite N-217
Sacramento, CA 95834
Telephone No.: 916-574-7684
Fax No.: 916-574-7700
E-Mail Address: alcidia_valim@dca.ca.gov

The backup contact person is:

Name: Geri Nibbs
Address: 1625 N. Market Blvd.,
Suite N-217
Sacramento, CA 95834
Telephone No.: 916-574-7682
Fax No.: 916-574-7700
E-Mail Address: geri_nibbs@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.rn.ca.gov.

GENERAL PUBLIC INTEREST

**CALIFORNIA GAMBLING CONTROL
COMMISSION**

**NOTICE OF RESCHEDULED
PUBLIC HEARING
ASSISTANCE TO BINGO PLAYERS
WITH DISABILITIES**

CGCC-GCA-2009-03-C

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) has rescheduled the public hearing to receive comments regarding the proposed action described in the Notice of Proposed Regulatory Action duly published in the *California Regulatory Notice Register* on July 10, 2009 (Notice File No. Z-2009-0630-05, Register 2009, No. 28-Z, 07/10/2009), and which is hereby incorporated by reference as if fully set forth herein. A hearing was previously scheduled for October 15, 2009, in response to two written requests received within the time period prescribed in Government Code section 11346.8(a). Due to unforeseen scheduling conflicts, the public hearing has been rescheduled. The new date and location of the public hearing is October 20, 2009, at 10:00 a.m., at 2399 Gateway Oaks Drive, First Floor Hearing Room, Suite 100, Sacramento, CA 95833-4231.

PUBLIC COMMENT PERIOD

The written comment period has **not** been extended. Written comments relevant to the proposed regulatory action **must be received by the Commission no later than 5:00 p.m. on September 30, 2009**. Comments may be submitted by mail, facsimile, or e-mail, and should be directed to the contact person named below. Written comments will also be accepted at the above referenced hearing.

CONTACT PERSON

All comments and inquiries concerning the substance of the proposed action should be directed to the following contact person:

James B. Allen, Regulatory Actions Manager
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
E-mail: Jallen@cgcc.ca.gov

**CALIFORNIA GAMBLING CONTROL
COMMISSION**

**NOTICE OF RESCHEDULED
PUBLIC HEARING
INTERIM APPROVAL OF BINGO
CARD-MINDING DEVICES**

CGCC-GCA-2008-04-C

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) has rescheduled the public hearing originally set for July 2, 2009 in the Notice of Proposed Action duly published in the *California Regulatory Notice Register* (Z-2009-0505-05, Register 2009, No. 20-Z, 05/15/2009), and subsequently rescheduled for October 15, 2009. Due to unforeseen scheduling conflicts, the public hearing has been rescheduled. The new date and location of the public hearing is October 20, 2009, at 10:00 a.m., at 2399 Gateway Oaks Drive, First Floor Hearing Room, Suite 100, Sacramento, CA 95833-4231.

PUBLIC COMMENT PERIOD

The written comment period has **not** been extended. Written comments relevant to the proposed regulatory action **must be received by the Commission no later than 5:00 p.m. on October 15, 2009**. Comments may be submitted by mail, facsimile, or e-mail, and should be directed to the contact person named below. Written comments will also be accepted at the above referenced hearing.

CONTACT PERSON

All comments and inquiries concerning the substance of the proposed action should be directed to the following contact person:

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DEPARTMENT OF FISH AND GAME

Department of Fish and Game —
Public Interest Notice

For Publication September 25, 2009
PROPOSED RESEARCH ON FULLY
PROTECTED SPECIES

Monitoring and research of California Clapper Rail
and California Black Rail

The Department of Fish and Game (Department) received a proposal on September 8, 2009 from Ms. Emilie Strauss of Huffman–Broadway Group, San Rafael, California, requesting authorization to take California Clapper Rail (*Rallus longirostris obsoletus*) (clapper rail) and California Black Rail (*Laterallus jamaicensis coturniculus*) (black rail) (hereinafter referred to as rails), which are Fully Protected birds, for research purposes, consistent with the protection and recovery of the species. The applicant is required to have a Scientific Collecting Permit (SCP) to take a protected bird species. Permit conditions require that the holder of an SCP obtain special authorization from the Department for research on Fully Protected species.

Ms. Strauss is planning to conduct presence/absence surveys throughout the range of each species using call playback methods in accordance with a standard protocol. No adverse effects on individual rails or rail populations are expected.

Destruction and alteration of wetlands is the principal reason for the decline of these rail species. Effective management efforts and species recovery requires a thorough understanding of the distribution and habitat requirements of these species. Tasks listed in the federal Salt-marsh Harvest Mouse and California Clapper Rail Recovery Plan (1984) may benefit from the issuance of this permit, as this research may help to: determine the causes of clapper rail population fluctuations; evaluate the effects of pollutants, sedimentation, and freshwater fluctuations on invertebrate prey of clapper rails; determine habitat preferences of clapper rail in tidal marshes; determine habitat preferences of the clapper rail in non-tidal diked marshes; and determine the effects of flood and mosquito control, as well as sea level changes, on the clapper rail. Similar information may be gleaned from presence/absence surveys for the black rail.

The Department intends to issue, under specified conditions, a Memorandum of Understanding (MOU) that would authorize the applicant, as the Principal Investigator, to carry out the proposed activities. As clapper rails are also federally endangered species, applicants are required to possess a valid federal threatened and endangered species recovery permit. The applicant has applied for this federal permit.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of Fully Protected bird species after 30 days notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after October 25, 2009, for an initial and renewable term of two years. Contact: Esther Burkett, eburkett@dfg.ca.gov, 916-445-3764.

DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Notice of Variance granted to E. I. DuPont de Nemours and Company

The Department of Toxic Substances Control (Department) has issued a variance to E.I. DuPont Chemical Company (DuPont) for its facility located at 6000 Bridgehead Road, Oakley, California 94561 (the facility) pursuant to Health & Safety Code section 25143. This variance modifies groundwater quality sampling and monitoring requirements of California Code of Regulations, Title 22, Chapter 15, Article 6, sections 66265.99(e)(3) and (e)(6).

This variance allows DuPont to conduct: a) semi-annual sampling instead of the quarterly sampling of monitoring points that are subject to the Chapter 15, Article 6 requirements during the five-year term of this variance at the facility and b) annual Chapter 15, Appendix IX groundwater sampling at the designated point of compliance wells rather than at all Article 6 monitoring points, during the five-year term of this variance also at the facility. DTSC has determined this variance to be categorically exempt from the California Environmental Quality Act.

This reduction in the frequency and scope of groundwater sampling/monitoring is a minor change from the applicable regulatory requirements for an inactive facility. This change in requirements for data collection activity will not pose significant risk to human health or the environment because:

1. The reduced groundwater sampling will still be consistent with the intent of federal regulations regarding the monitoring of groundwater quality at inactive facilities. The facility is closed with no current operation of hazardous waste management activities.
2. Extensive characterization of groundwater contamination from former impoundments, Solid Waste Management Units, and Areas of Concern has been completed on a site-wide basis. There is sufficient investigation and monitoring history to

document the site conceptual model and understand plume behavior.

3. DTSC has determined, based upon an evaluation of past groundwater monitoring data, that factors such as seasonal variation and groundwater flow rate can be adequately addressed by a semi-annual sampling frequency. Conditions of the variance still allow DTSC to unilaterally require an increased number of monitoring points and to unilaterally require a more stringent sampling frequency if there are changes from the expected results or if there is a change in site conditions after issuance of this variance.

For further information, please contact Peter Ruttan at (916) 255-3630 or PRuttan@dtsc.ca.gov.

TITLE 14. FISH AND GAME COMMISSION

Notice of Proposed Changes in Regulations

(Continuation of Register 2009, No. 35-Z, and
Commission Meeting of August 6, 2006)

(NOTE: To be responsive to public input on proposed changes in the sport fishing regulations, the Commission is exercising its powers under Section 202 of the Fish and Game Code. Some changes to the proposed regulations may not be available to the public for the full public comment period prior to adoption. See the text of this notice.)

NOTICE IS HEREBY GIVEN that the Fish and Game Commission, pursuant to the authority vested by sections 200, 202, 205, 220 and 315 of the Fish and Game Code and to implement, interpret or make specific sections 200, 202, 205, 206 and 220 of said Code, proposes to amend sections 1.74, 5.00, 5.30, 5.40, 5.79, 5.80, 5.81, 5.82, 5.87, 5.88, 7.50, 8.00, and 701, and to add sections 5.70, and 5.83 Title 14, California Code of Regulations (CCR), as part of the proposed Sport Fishing Regulations for years 2010 through 2012 (as explained in the following paragraph).

Proposed changes to sections as set forth in the first notice regarding Sport Fishing Regulations (Notice Register 2009, No. 35-Z, published August 28, 2009) remain the same, **except for modifications based on additional public and department recommendations proposed for Sections 5.00, 5.30, 5.40, 5.79, 5.80, 5.81, 5.82, 7.50, 27.92, 29.80 and 701; and added in Sections 5.70 and 5.83 (see Informative Digests below).**

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEWS

Amend Section 1.74, Section 5.87, subsection (b)(180) of Section 7.50, subsection (a) of Section 8.00, and subsections (b) and (c) of Section 701

Title 14, California Code of Regulations

Re: Report Card and Low-Flow Regulations

The Department of Fish and Game proposes the following regulatory changes, relating to angling on north coast streams and sport fishing report cards:

- Require a salmon report card FG 683 (Rev. 9/09) in the Smith River [1.74; 5.87; 701(b)].
- Add slight modification to sturgeon report card FG 684 (Rev. 9/09) [701(c)].
- Allow only barbless hooks in the Smith River [7.50(b)(180)].
- Change the annual beginning date for low-flow angling restrictions in the Mad River [8.00].
- Clarify the procedure and correct the phone number for implementing north coast low-flow angling restrictions [8.00].
- Extend the low-flow restriction reach of the Middle Fork Eel River, to be consistent with the reach open to fishing [8.00].
- Correct the low-flow restriction reach for the South Fork Smith River, to be consistent with the reaches open to fishing [8.00].

All proposed changes for the Smith River have been moved to the Statewide Steelhead Alignment Initial Statement of Reason to align Triennial rulemakings and reduce public confusion.

All proposed changes for the sturgeon report card have been moved to the Sturgeon Regulations Initial Statement of Reason to align Triennial rulemakings and reduce public confusion.

Present Regulations

Section 1.74, Title 14, CCR, contains the general requirements, tagging procedures, and regulations for the following sport fishing cards: Klamath-Trinity Salmon Report Card, Steelhead Report and Restoration Card, Spiny Lobster Report Card, Sturgeon Fishing Report Card, and Abalone Report Card.

Section 5.87, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the Klamath-Trinity Salmon Report Card.

Section 8.00(a), Title 14, CCR, contains the low flow restrictions, flow determination procedures and Department informational numbers for all inland waters.

Section 701, Title 14, CCR, lists sport fishing forms, form revision dates, associated annual fees, and other related information.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department is proposing the following changes to current regulations:

Require Salmon Report Card in Smith River (Sections 1.74; 5.87; 701(b))

Existing regulations require anglers fishing for salmon in the Klamath-Trinity river system to possess and use a Klamath-Trinity Salmon Report Card. Anglers are allowed to retain Chinook salmon in the Klamath-Trinity, and the report card provides the department effort and catch data that are very valuable in managing the continued sustainability of salmon populations there. The only other north coast river where anglers may retain Chinook salmon is the Smith River. However there is no salmon report card requirement in the Smith River, so the fishery is managed without the aid of critical monitoring for effort and catch.

This proposed regulation change would expand the Klamath-Trinity Salmon Report Card requirements to the Smith River, which would provide critical data for the Smith River, enabling better informed fisheries management decisions specific to hatchery and wild Chinook salmon populations in the Smith River. Additionally, there would be a small amount of revenue directed towards data analysis, reporting, and Smith River fisheries monitoring. Also, the report card would be renamed the "North Coast Salmon Report Card" which would simplify the card name and eliminate the need to change the card name in the future if north coast streams are added or deleted.

Change Beginning Date for Mad River Low-Flow Restrictions (Section 8.00(a))

Existing regulations allow angling in the lower Mad River from the fourth Saturday in May through March 31, with low-flow restrictions in effect from October 1 through January 31. Chinook salmon generally begin to enter and hold in pools in the Mad River during late August or early September. During September, Chinook are easily detected, accessible, and subject to heavy fishing pressure and poaching due to low flow and clear water. DFG regional offices receive numerous calls regarding violators, and the trend for citations is increasing each year.

This proposed regulation change would begin low-flow restrictions in the Mad River on September 1 rather than October 1. It would reduce unlawful take and unnecessary risk to this threatened species.

Clarify Implementation and Correct Phone Number for North Coast Low-Flow Restrictions (Section 8.00(a))

Existing regulations authorize the Department to close or open north coast anadromous stream reaches to angling, based on specified minimum flows at specified

gauging stations on specified flow-determination days (Monday, Wednesday, and Friday):

- When the flow is below the minimum on a flow-determination day, the reach is closed starting the day after that flow-determination day, through the next flow-determination day.
- When the flow is above the minimum on a flow-determination day, the Department may close the reach if the Department expects the flow to decrease below the minimum before the next flow-determination day.
- The Department may reopen a reach at any time if the minimum flow is exceeded, and if the Department expects it will remain exceeded until the next flow-determination day.

The wording of the existing regulations is complicated and has resulted in public confusion and numerous inquiries to the Department regarding its authority to close the fishery on the flow-determination day when the flow is above the minimum. Clarification is needed.

This proposed regulation change would add two words ("or on") to Section 8.00(a) to clarify implementation. When the flow is above the minimum on a flow-determination day, the Department may close the reach if it expects the flow to decrease below the minimum before "or on" the next flow-determination day. This change would reduce confusion for anglers and Department staff time for public inquiries. Additionally, the north coast low-flow information telephone number at the end of Section 8.00(a) has changed because the information line was relocated from Eureka (707-442-4502) to Arcata (707-822-3164).

Extend Middle Fork Eel River Low-Flow Restrictions Reach (Section 8.00(a)(2))

Existing special stream regulations (Section 7.50(b)(63)(D)) designate a reach of the Middle Fork Eel River, from its mouth upstream to Bar Creek, as open to fishing. This reach is about 35 miles long. The open season in this reach is January through May and July 16 through September. Existing low-flow restriction regulations (Section 8.00(a)(2)) specify the low-flow restriction reach of the Middle Fork Eel as the mouth upstream to the Black Butte River. This reach is about 32 miles long, and low-flow restrictions are in effect October through January.

The result of the above is a 3 mile reach of the Middle Fork Eel (from Black Butte River upstream to Bar Creek) that, during the month of January, is open to fishing but not subject to low-flow closure. This is an inconsistency in the regulations, and it allows angling for adult salmonids in January without the protection of low-flow closure. The main adult salmonid present at this time of year is winter-run steelhead (federally listed as threatened). Additionally, some coastal Chi-

nook, which are also federally listed as threatened, may also be present (January is late in the run).

The proposed regulation change would extend the low-flow restriction reach upstream 3 miles to the mouth of Bar Creek. This would make the low-flow regulations consistent with the special stream regulations, and provide low-flow closure protection in that 3 mile reach.

Reduce Low-Flow Restriction Reach for South Fork Smith River (Section 8.00(a)(7))

Existing special stream regulations (Section 7.50(b)(180)(C)) designate two reaches on the South Fork Smith River as open to fishing: from the mouth upstream to the County Road (George Tryon) bridge (about 1,000 feet); and from Craigs Creek to Jones Creek (about 14 miles). The reach between those two open reaches (from George Tryon Bridge upstream to Craigs Creek, about 1.9 miles), is closed to fishing.

Existing low-flow restriction regulations (Section 8.00(a)(7)) designate the low-flow restriction reach of the South Fork Smith River as the mouth upstream to Jones Creek, which includes the closed reach from George Tryon Bridge to Craigs Creek. Thus the reach subject to low-flow restriction includes a portion of stream about 1.9 miles long that is closed to fishing all year. This inconsistency is confusing and may lead some anglers to believe the closed reach from George Tryon Bridge to Craigs Creek is actually open to fishing.

This proposed regulation change would correct the inconsistency by reducing the existing low-flow restriction reach to conform with the reaches open to fishing in the special stream regulations. This proposed change would provide better public understanding and compliance with fishing regulations, reduce staff time to address public inquiries, and may spare some anglers a citation.

Amend Section 5.00, Section 5.30, Section 5.40, Section 5.82, subsections (b)(1.5), (b)(128), (b)(124), (b)(147) and (b)(182) of Section 7.50, and Add Section 5.70, Section 5.83 and subsection (b)(181.8) of Section 7.50

Title 14, California Code of Regulations

Re: Sport Fishing Bag Limits

This Department proposal is a combination of Department and public requests for Title 14, California Code of Regulations (CCR) revisions to sport fishing bag limits for the 2009 triennial sport fishing review cycle. This proposal modifies bag limit regulations for black bass in Lake Perris, crappie, sunfish, lamprey, Sacramento splittail, Alameda Creek and tributaries, Nacimiento River, Putah Creek, and Lake Sonoma and tributaries.

For public notice purposes to facilitate Commission discussion, the Department is proposing the following changes to current regulations as discussed in the following paragraphs:

LAKE PERRIS BLACK BASS REGULATIONS

In October 2005, the Department of Water Resources, Division of Dam Safety, determined the dam at Lake Perris was unsafe due to concerns about stability during an earthquake. An emergency lowering of the lake surface elevation by 25 feet was necessary to meet safety standards. This lowering reduced the water surface area by 20% and the lake volume by 43%. Population estimates for 12 inch and larger largemouth bass conducted pre and post drawdown, have shown a 60 to 67 percent decline in bass numbers. This population decline is due to reduced water volume, lack of suitable habitats, concentration of fish, lack of recruitment and predation. Angling pressure for bass has decreased during this period due to fewer boats allowed to launch and a 75% reduction in the number of team tournaments held.

Recent general fish surveys have confirmed that since the drawdown all year classes of bass are very weak and may not sustain the fishery with normal fishing pressure and harvest. Lake Perris was known as a trophy bass fishery, but under the current recruitment conditions, production of larger fish is in doubt.

Unlike most of the water bodies in southern California, significant portions of bass caught from shore were kept as food. Raising the minimum legal size reduces this impact by restricting anglers to harvesting only larger bass, which are not as common in the areas accessible to shore anglers. The Department has established a successful put-and-take trout fishery and this will help mitigate the impacts to shore anglers wanting fish for consumption. The trout fishery could be experiencing increased utilization, as fish confined to the smaller body of water are more available to the anglers.

Upon completion of the dam repair project and water levels returning to full pool, we estimate the bass fishery will take 5 to 10 years to return to pre-drawdown numbers. The Department is implementing habitat improvement projects within Lake Perris which should help maintain the existing fishery and expedite recovery with restoration of the water level. Upon re-establishment of the fishery, the regulations will return to the statewide standards for size and bag limits.

The largemouth bass population in Lake Perris has continued to decline since the 2005 drawdown, it is extremely important that approval of this regulation change occur during this cycle.

Amend Section 5.00, Black Bass Regulations.

— Add Perris Lake regulations to establish a bag limit of 2 fish with a minimum size of 15 inches.

— **Additional minor changes are proposed for clarity and to reduce public confusion.**

CRAPPIE, SUNFISH AND TILAPIA

Presently crappie has a 25 fish bag limit where as sunfish and tilapia have no limit. The Law Enforcement Division has seen an increase in the illegal commercialization of sunfish in recent years. With no bag limit on sunfish, there is no way to regulate the amount of fish that can be taken, therefore increasing the ease of supply for a commercial demand. Sunfish are also commonly used for bait on illegal long lines in inland waters.

The Department's Law Enforcement Division is proposing to establish a statewide combined bag limit of 25 sunfish and crappie to combat illegal commercialization of sunfish and crappie and improve compliance with existing regulations.

Amend Section 5.30, Crappie Regulations.

— Move crappie regulations to Section 5.82 to establish a statewide combined bag limit with sunfish.

— Add cross reference to section 5.82 for clarity.

Amend Section 5.82, Sunfish and Tilapia Regulations.

— Move tilapia regulations to Section 5.83.

— Establish combined bag limit of 25 sunfish and crappie except in Barrett and Upper Otay Lakes where there is a zero bag limit.

— Add crappie size limit of 10 inches for Hodges and El Capitan Lakes.

Add Section 5.83, Tilapia Regulations.

— Add tilapia open seasons of all year except for district and special regulations closures.

LAMPREY REGULATIONS

The Department proposes to establish a bag limit of 5 for Pacific Lamprey within state waters. Pacific Lamprey stocks are depressed throughout much of its west coast range. The Pacific Lamprey Conservation Initiative is an effort presently led by the U.S. Fish and Wildlife Service (FWS) to facilitate communication and coordination relative to the conservation of Pacific lampreys throughout their range. The goal of the initiative is to develop a Pacific Lamprey Conservation Plan that will lead to restored Pacific lamprey populations and improvement of their habitat.

This initiative is addressing the consideration of Pacific Lamprey when implementing instream activities, mercury contamination and bioaccumulation, spawning characteristics, biological and ecological needs, and

threats. Department staff are part of this conservation initiative. The Department proposed to establish California bag limits similar to others west coast states as a reasonable management measure.

Amend Section 5.40, Lamprey Regulations.

— Reduce bag limit to 5 lamprey.

— Remove traps from approved methods of take.

— Additional minor changes are proposed for clarity and to reduce public confusion.

SPLITTAIL REGULATIONS

Sacramento splittail is a native minnow once listed as a Threatened Species under Federal Endangered Species Act. The original listing was due to extensive habitat loss and fluctuations in abundance. Though the species is no longer listed, the decision was controversial and under regional examination.

Splittail are the object of a sport fishery primarily focused on the spawning grounds during spawning season. The species is also used as bait. Existing sport fishing regulations have no limits for splittail. This proposal will add protections for splittail that are consistent with new concerns about the species.

Add Section 5.70, Sacramento Splittail Regulations.

— Add bag limit of 2 fish.

— Restrict methods of take to angling only.

ALAMEDA CREEK SPECIAL REGULATIONS

There are substantive efforts underway to provide fish passage over the 100% migration barriers in the Alameda Creek flood control channel. While working to provide passage for anadromy, members of the Alameda Creek Work Group are, in the meantime, annually relocating anadromous steelhead from below the lower-most barrier in Alameda Creek to locations upstream of this barrier.

As part of early planning efforts to jumpstart the anadromous steelhead run, the Department is currently considering utilizing the land-locked steelhead populations located upstream of San Antonio and Calaveras Reservoirs as a genetic source of steelhead to jumpstart the anadromous run. Genetic tests indicate that these land-locked populations have the genetics of Central California Coast Distinct Population Segment steelhead. Additionally, trapping efforts have indicated that these populations exhibit the behavioral and morphological characteristics of anadromous steelhead in their migration to and from the Calaveras and San Antonio reservoirs.

This proposal will provide protection for the anadromous steelhead that are annually relocated upstream of the barriers in the flood control, as well as increase

protection for the possible genetic source of future steelhead enhancements.

Amend subsection 7.50(b)(1.5), Alameda Creek and Tributaries Special Regulations.

— Add year round closure for all species for areas downstream of San Antonio, Calaveras and Del Valle reservoirs.

MOKELUMNE RIVER SPECIAL REGULATIONS

This public recommendation proposes to move the upper boundary of subsection 7.50(b)(124)(A) to open up additional fishing opportunities year round. This proposal is supported by the East Bay Municipal Utilities District (EBMUD) and the Department.

Recent EBMUD fish studies indicate the primary juvenile steelhead habitat occurs upstream of Highway 99. Prior to the reconstruction and reconfiguration of the Woodbridge Irrigation District Dam on the lower Mokelumne River in 2006, striped bass were precluded from the 20-mile stretch of the river that provides rearing habitat for juvenile steelhead and trout. In April and May 2006, striped bass were observed upstream of Woodbridge Irrigation District Dam. Examination of these fish indicated that they were feeding on juvenile Chinook salmon and steelhead. Studies conducted in the lower Mokelumne River by EBMUD suggest that during the April through June period, each average adult striped bass can consume 2–3 juvenile salmonids per day. To this date, it is unknown if striped bass are upstream of the Woodbridge Irrigation District Dam. However, other Centrarchids are present in this lower stretch of the Mokelumne River including Lodi Lake. Furthermore, Woodbridge Irrigation District is proposing to keep Lake Lodi full throughout the year instead of draining it during the fall months, which has the potential to harbor more Centrarchids.

Amend subsection 7.50(b)(124), Mokelumne River Special Regulations.

— Move the upper boundary of subsection (A) up to Highway 99 Bridge from Peltier Road which will also open up Lodi Lake year round.

NACIMIENTO RIVER SPECIAL REGULATIONS

Through 2008, the Department stocked the main stem of the Nacimiento River downstream of Nacimiento Dam with hatchery trout to support a fishing program at Camp Roberts. National Marine Fisheries

Services (NMFS) has expressed concern in the past that hatchery trout were being stocked in a steelhead stream.

The Department and NMFS agreed that data would be collected to determine whether steelhead were being impacted by the fishing program. Otoliths were collected between 2002 and 2005. Otolith analysis by NMFS has shown that progeny of anadromous females have been taken during fishing activities in the river. The Department agreed that the stocking program would discontinue if there was evidence that steelhead were present in the mainstem of Nacimiento River downstream of the dam. The current fishing regulations were set to accommodate anglers being able to keep stocked fish.

Presently with the hatchery trout stocking being stopped, the current regulation needs to be changed to allow catch and release fishing using barbless lures. This change is consistent with fishing regulations for other steelhead streams in the South Central District and is more protective for listed steelhead.

Amend subsection 7.50(b)(129), Nacimiento River Special Regulations.

— Establish zero bag limit for main stem below Nacimiento Dam to the confluence with the Salinas River.

— Correct abbreviation for county to align the regulatory language of this subsection with the other special regulations.

PUTAH CREEK SPECIAL REGULATIONS

A high use rainbow trout fishery exists in Putah Creek (Solano and Yolo counties) from Solano Lake to Monticello Dam partially through out-planting of the Department's hatchery produced rainbow trout. However, it is believed that this reach of stream also supports a native wild trout fishery and that this reach of Putah Creek is considered candidate wild trout water. The Department will have a better understanding of the most appropriate management/regulations needed for that fishery following several years of monitoring.

The recent lawsuit brought against the Department on its hatchery out-planting practices resulted in a review of the effects of out-planting trout in this stream reach by the local Department biologist. It was determined that this practice may result in concerns for negative interactions with various listed species.

The out-planting of Department hatchery produced rainbow trout has been discontinued as a result until further studies can be conducted to determine this potential impact. In the absence of hatchery planted trout, angler harvest based on "put and take" management strategies could potentially impact wild populations.

Without the support of hatchery out-planting, there are concerns by the Putah Creek Trout local angling group that a 5 fish general trout limit would deplete this

fishery over time in the 10.5 km reach of Putah Creek and Lake Solano.

The original joint proposal included expanding the gear restriction of only artificial lures and barbless hooks for all year and was left out of the Initial Statement of Reasons due to an editing error.

Amend subsection 7.50(b)(147), Putah Creek Special Regulations.

— Establish zero bag limit for Putah Creek from Solano Lake to Monticello Dam.

— **Expand the gear restriction of only artificial lures and barbless hooks to all year.**

— Correct abbreviation for county to align the regulatory language of this subsection with the other special regulations.

SONOMA LAKE SPECIAL REGULATIONS

Dry Creek, tributary to the Russian River in Sonoma County was dammed in 1983 by the US Corps of Engineers, forming what is now Lake Sonoma. The Lake now harbors a small population of large native rainbow trout (formerly sea-run steelhead) which inhabit the cooler deep waters of the lake and are targeted by fishermen during the spring, summer and fall. No stocking of hatchery rainbow trout has occurred although, largemouth bass and catfish have been stocked in the reservoir, so the lake receives year-round fishing interest and moderate fishing pressure.

The local fishermen have raised concerns for the status of the trout population over the last 3 years due to the recent drought conditions, increased fishing pressure and the applicability of a statewide regulation of 5 trout per day on a landlocked population that is not supplemented by hatchery fish. Because of the popular status of the fishery, the integrity of the population, and the interest by fishermen, the lake is currently under assessment and evaluation by the Department for proposed designation as a Wild Trout Water, thus angler surveys have been conducted over the past 18 months. Reconnaissance surveys of lakes' tributary streams where adults spawn have been conducted and the depressed conditions have been verified over the last two years.

Add subsection 7.50 (b)(181.8), Sonoma Lake Special Regulations.

— Establish a year round two fish bag limit for Sonoma Lake.

Amend subsection 7.50(b)(182), Sonoma Lake Tributaries Special Regulations.

— Reduce bag limit in Sonoma Lake tributaries to two fish.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEWS

Amend Section 5.79, Section 5.80, Section 5.81, Section 27.92, and subsections (c) of Section 701 Title 14, California Code of Regulations

Re: Sturgeon Regulations

Proposal Overview

Green sturgeon, *Acipenser medirostris*, is one of the most ancient and prized game fish of North America. The history of sturgeon fisheries throughout the world has been one of overexploitation which has resulted in severe population decline. Green sturgeon are found in rivers only from British Columbia south to the Central Valley Basin. In California, spawning populations have been lost in the last 30 years in the Eel, South Fork Trinity, and San Joaquin Rivers. It is likely that the Sacramento, Klamath, and Rogue Rivers are the only locations where green sturgeon spawn today.

On April 7, 2006, NOAA Fisheries listed the southern distinct population segment, or DPS, of North American green sturgeon as threatened under the Endangered Species Act. In the nearly three years since the ruling, many agencies have focused attention on the biological and angling aspects of the green sturgeon fishery in the Sacramento River. The upcoming NOAA Fisheries Green Sturgeon Section 4(d) ruling is expected to document the upper Sacramento River above Colusa as the main green sturgeon spawning habitat for the species for California.

Most recently, direct observation from Department enforcement personnel, Central Valley Angler Survey data, and Sturgeon Fishing Report Card data have revealed a targeted catch and release fishery on green sturgeon between Butte City and the Red Bluff Diversion Dam. Section 5.81, Title 14, California Code of Regulations (CCR), prohibits the take and possession of green sturgeon. Federal and state biological and enforcement staff feel that present regulations are inadequate to fully protect this sensitive listed species. In addition, green sturgeon are often confused with white sturgeon and are targeted heavily by fishing guides and anglers with catch and release fishing in a few deep holes in the Sacramento River from Butte City and the Red Bluff Diversion Dam.

Section 1.80, Title 14, CCR, defines take as "Hunt, pursue, catch, capture or kill fish, amphibians, reptiles, mollusks, crustaceans or invertebrates or attempting to do so." Similar to recent action on Central Valley salmon, the Department feels that strong measures are needed to reduce fishing impact on green sturgeon. It is also expected that the upcoming NOAA Fisheries Green

Sturgeon Section 4(d) ruling will require reduction of green sturgeon impacts in the upper Sacramento River.

The Department is proposing to increase protection for this listed species by prohibiting all catch and release fishing for any sturgeon in upper Sacramento River. This proposal will reduce the green sturgeon encounters by 22–23% overall and the catch and release of green sturgeon on their main spawning grounds will be stopped with reduction in the statewide sturgeon fishing opportunities of less than 5%. The Department is proposing the following options to facilitate Commission discussion:

Option 1: Closure on the Sacramento River from Keswick Dam to the Highway 32 Bridge.

- 1) Year round or a range of dates to be developed from Commission discussion and public input.
- 2) Gear restrictions of no wire leaders and no lamprey or any type of shrimp as bait.

Option 2: Closure on the Sacramento River from Keswick Dam to the Highway 162 Bridge.

- 1) Year round or a range of dates to be developed from Commission discussion and public input.
- 2) Gear restrictions of no wire leaders and no lamprey or any type of shrimp as bait.

Analysis of Sturgeon Fishing Report Card Data

The 2007 report card data in Table 1 shows the reach of the Sacramento River from Red Bluff to Colusa as the area of highest green sturgeon encounters (22% of the total annual green sturgeon releases). The months of highest green sturgeon releases were December to February (25% of the area total) and September to November (57% of the area total). The corresponding white sturgeon data for the same area in Table 2 was 5% of the total annual white sturgeon catch and the months of highest white sturgeon catch were March to May (89% of the area total).

The 2008 report card data in Table 3 shows the reach of the Sacramento River from Red Bluff to Colusa as the area of highest green sturgeon encounters (23% of the total annual green sturgeon releases). The months of highest green sturgeon releases were December to February (36% of the area total) and June to August (36% of the area total). The corresponding white sturgeon data for the same area in Table 4 was 3% of the total annual white sturgeon catch and the months of highest white sturgeon catch were March to May (91% of the area total).

**Table 1. 2007 Green Sturgeon Release Data from Sturgeon Fishing Report Card
(Report card was implemented in March 2007)**

| Location | Fish release percentage for each area | | | | | Area % of total releases |
|--|---------------------------------------|---------|---------|---------|----------|--------------------------|
| | Dec | Mar-May | Jun-Aug | Sep-Nov | Unk date | |
| Sacramento: Red Bluff to Colusa | 25% | 3% | 15% | 57% | | 22% |
| Sacramento: Colusa to Knights Landing | 44% | 33% | | 11% | 11% | 3% |
| Sacramento: Knights Landing to Rio Vista | 13% | 38% | 6% | 44% | | 5% |
| Sacramento: Rio Vista to Chipps Island | 27% | 16% | 6% | 45% | 5% | 20% |
| Feather River | | | 100% | 0% | | 1% |
| American River | | | | 0% | | 0% |
| Sacramento Deepwater Ship Channel | | 33% | | 67% | | 1% |
| Yolo Bypass | | | | 0% | | 0% |
| Montezuma Slough | 36% | 29% | 7% | 29% | | 5% |
| Napa River | 14% | 57% | 14% | 14% | | 2% |
| Petaluma River | | | | 100% | | 0% |
| San Joaquin: Upstream of HWY 140 bridge | | | | 0% | | 0% |
| San Joaquin: HWY 140 bridge to Stockton | | | | 0% | | 0% |
| San Joaquin: Stockton to Sherman Lake | 13% | 27% | 15% | 46% | | 15% |
| Old River | | | | | | 0% |
| San Pablo Bay | 25% | 60% | 10% | 5% | | 6% |
| Carquinez Strait | 31% | 31% | 15% | 23% | | 4% |
| Suisun Bay | 13% | 30% | 10% | 47% | | 10% |
| Grizzly Bay | 14% | 21% | 7% | 57% | | 5% |
| San Francisco Bay: North of HWY 80 | 50% | | | 50% | | 1% |
| San Francisco Bay: South of HWY 80 | | 100% | | | | 0% |
| Ocean: North of Golden Gate Bridge | | | | | | 0% |
| Ocean: Golden Gate Bridge to Point Sur | | | | | | 0% |
| Ocean: Point Sur to San Diego | | | | | | 0% |
| Any reservoir or lake | | | | | | 0% |
| Unknown | 50% | | | 50% | | 1% |

**Table 2. 2007 White Sturgeon Catch and Retention Data from Sturgeon Fishing Report Card
(Report card was implemented in March 2007)**

| Location | Fish catch percentage for each area | | | | | Area % of total catch |
|--|-------------------------------------|---------|---------|---------|-------------|-----------------------------|
| | Dec | Mar-May | Jun-Aug | Sep-Nov | Unk date | |
| Sacramento: Red Bluff to Colusa | 2% | 89% | 2% | 8% | | 5% |
| Sacramento: Colusa to Knights Landing | 4% | 92% | | 4% | | 5% |
| Sacramento: Knights Landing to Rio Vista | 12% | 71% | 3% | 13% | | 11% |
| Sacramento: Rio Vista to Chipps Island | 19% | 22% | 3% | 55% | 1% | 14% |
| Feather River | | 100% | | | | 0% |
| American River | | | | | | 0% |
| Sacramento Deepwater Ship Channel | 30% | 24% | 6% | 41% | | 4% |
| Yolo Bypass | | | | | | 0% |
| Montezuma Slough | 24% | 43% | 4% | 28% | 1% | 9% |
| Napa River | 15% | 56% | 15% | 13% | 2% | 4% |
| Petaluma River | | 60% | | 40% | | 0% |
| San Joaquin: Upstream of HWY 140 bridge | | | | | | 1% |
| San Joaquin: HWY 140 bridge to Stockton | | | | | | 1% |
| San Joaquin: Stockton to Sherman Lake | 26% | 13% | 6% | 55% | | 3% |
| Old River | | | | | | 0% |
| San Pablo Bay | 14% | 72% | 9% | 5% | | 6% |
| Carquinez Strait | 19% | 30% | 35% | 16% | | 3% |
| Suisun Bay | 20% | 26% | 10% | 43% | | 19% |
| Grizzly Bay | 16% | 25% | 5% | 54% | | 4% |
| San Francisco Bay: North of HWY 80 | | 83% | 17% | | | 0% |
| San Francisco Bay: South of HWY 80 | 36% | 49% | 2% | 13% | | 4% |
| Ocean: North of Golden Gate Bridge | | | | | | 0% |
| Ocean: Golden Gate Bridge to Point Sur | 100% | | | | | 0% |
| Ocean: Point Sur to San Diego | | | | | | 0% |
| Any reservoir or lake | | | | | | 0% |
| Unknown | 12% | 49% | 10% | 30% | | 8% |

Table 3. 2008 Green Sturgeon Release Data from Sturgeon Fishing Report Card

| Location | Fish release percentage for each area | | | | Area % of total releases |
|--|---------------------------------------|---------|---------|---------|--------------------------|
| | Dec-Feb | Mar-May | Jun-Aug | Sep-Nov | |
| Sacramento: Red Bluff to Colusa | 36% | 11% | 36% | 16% | 23% |
| Sacramento: Colusa to Knights Landing | | 100% | | | 1% |
| Sacramento: Knights Landing to Rio Vista | 50% | 38% | | 13% | 3% |
| Sacramento: Rio Vista to Chipps Island | 37% | 20% | 4% | 39% | 19% |
| Feather River | | | | | 0% |
| American River | | | | | 0% |
| Sacramento Deepwater Ship Channel | 38% | 38% | | 25% | 3% |
| Yolo Bypass | | | | | 0% |
| Montezuma Slough | 58% | 33% | 8% | | 5% |
| Napa River | 50% | 33% | | 17% | 3% |
| Petaluma River | 100% | | | | 0% |
| San Joaquin: Upstream of HWY 140 bridge | | | | | 0% |
| San Joaquin: HWY 140 bridge to Stockton | | | | | 0% |
| San Joaquin: Stockton to Sherman Lake | 33% | 25% | 11% | 31% | 15% |
| Old River | | | | | 0% |
| San Pablo Bay | 40% | 20% | 10% | 30% | 4% |
| Carquinez Strait | 56% | 22% | 11% | 11% | 4% |
| Suisun Bay | 39% | 33% | 14% | 14% | 15% |
| Grizzly Bay | | 33% | | 67% | 1% |
| San Francisco Bay: North of HWY 80 | 50% | | 50% | | 1% |
| San Francisco Bay: South of HWY 80 | 75% | 25% | | | 2% |
| Ocean: North of Golden Gate Bridge | | | | | 0% |
| Ocean: Golden Gate Bridge to Point Sur | | | | | 0% |
| Ocean: Point Sur to San Diego | | | | | 0% |
| Any reservoir or lake | | | | | 0% |
| Unknown | | | | 100% | 1% |

Table 4. 2008 White Sturgeon Catch and Retention Data from Sturgeon Fishing Report Card

| Location | Fish catch percentage for each area | | | | Area % of total catch |
|--|-------------------------------------|---------|---------|---------|-----------------------|
| | Dec-Feb | Mar-May | Jun-Aug | Sep-Nov | |
| Sacramento: Red Bluff to Colusa | 5% | 91% | 4% | | 3% |
| Sacramento: Colusa to Knights Landing | 29% | 67% | | 4% | 7% |
| Sacramento: Knights Landing to Rio Vista | 34% | 53% | 1% | 12% | 16% |
| Sacramento: Rio Vista to Chipps Island | 37% | 31% | 5% | 27% | 16% |
| Feather River | | | | | 0% |
| American River | | | | | 0% |
| Sacramento Deepwater Ship Channel | 45% | 31% | 2% | 23% | 4% |
| Yolo Bypass | | | | | 1% |
| Montezuma Slough | 41% | 40% | 2% | 16% | 5% |
| Napa River | 36% | 47% | 11% | 6% | 4% |
| Petaluma River | 75% | 25% | | | 0% |
| San Joaquin: Upstream of HWY 140 bridge | | | | | 0% |
| San Joaquin: HWY 140 bridge to Stockton | | | | | 1% |
| San Joaquin: Stockton to Sherman Lake | 43% | 17% | 4% | 36% | 3% |
| Old River | | | | | 0% |
| San Pablo Bay | 45% | 47% | 2% | 6% | 7% |
| Carquinez Strait | 34% | 39% | 14% | 13% | 4% |
| Suisun Bay | 32% | 37% | 12% | 19% | 15% |
| Grizzly Bay | 44% | 22% | 6% | 28% | 3% |
| San Francisco Bay: North of HWY 80 | 60% | 30% | | 10% | 1% |
| San Francisco Bay: South of HWY 80 | 73% | 11% | 2% | 13% | 10% |
| Ocean: North of Golden Gate Bridge | 0% | 50% | | 50% | 0% |
| Ocean: Golden Gate Bridge to Point Sur | | | | | 0% |
| Ocean: Point Sur to San Diego | 100% | | | | 0% |
| Any reservoir or lake | | | 100% | | 0% |
| Unknown | 32% | 48% | 4% | 16% | 1% |

Analysis of Central Valley Angler Survey Data**From Hamilton City (Hwy 32 Bridge) to Red Bluff Diversion Dam**

The 2007–2008 CV survey data indicates that 3,000 angler hours were expended in this area or 1.9% of the total CV angler effort on sturgeon fishing in the Sacramento River. The months of reported green sturgeon releases were September (15 fish), November (38 fish), and December (23 fish). The months of recorded white sturgeon catch were August (17 fish), and October (30 fish) and the months of recorded white sturgeon releases were September (15 fish), October (45 fish), November (47 fish), and December (12 fish).

The 2008–2009 CV survey data indicates that 4,000 angler hours were expended in this area or 1.3% of the total CV angler effort on sturgeon fishing in the Sacramento River. The months of recorded green sturgeon releases were July (53 fish), September (26 fish), October (16 fish), November (7 fish), and December (24 fish). No white sturgeon were reported to have been kept and

7 white sturgeon were reported as released in November.

From Colusa (River Rd. Bridge) to Hamilton City (Hwy 32 Bridge)

The 2007–2008 CV survey data indicates that 9,200 angler hours were expended in this area or 5.8% of the total CV angler effort on sturgeon fishing in the Sacramento River. No green sturgeon were reported to have been released. The months of recorded white sturgeon catch were March (31 fish), April (42 fish), and May (18 fish) and no white sturgeon were reported to have been caught or released.

The 2008–2009 CV survey data indicates that 12,200 angler hours were expended in this area or 3.8% of the total CV angler effort on sturgeon fishing in the Sacramento River. The month of recorded green sturgeon releases were April (9 fish). The months of recorded white sturgeon catch were March (49 fish), April (79 fish), and May (13 fish) and 44 white sturgeon were reported as released in April.

Present Regulations

Section 5.79, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the White Sturgeon Report Card for Inland Waters.

Section 5.80, Title 14, CCR, contains the White Sturgeon daily bag and possession limits, season dates, methods of take, and other special regulations.

Section 5.81, Title 14, CCR, contains the Green Sturgeon special regulations.

Section 27.92, Title 14, CCR, contains the requirements, procedures and regulations that are specific to the White Sturgeon Report Card for Ocean Waters.

Section 701, Title 14, CCR, lists sport fishing forms, form revision dates, associated annual fees, and other related information.

Proposed Regulations

For public notice purposes to facilitate Commission discussion, the Department is proposing the following changes to current regulations:

Amend sections 5.80 and 5.81

There are two proposed regulatory options to add the following language to subsection (h) to Section 5.80 and subsection (c) to Section 5.81.

Option 1: Special Sierra and Valley District Sturgeon Closure for varied dates from January 1 to December 31. The final range of dates will be determined by the Commission.

1. It is unlawful to fish for any sturgeon on the Sacramento River from Keswick Dam to the Highway 32 Bridge.
2. It is unlawful to use wire leaders.
3. It is unlawful to use lamprey or any type of shrimp as bait.

This proposal will provide adequate protection of green sturgeon but leave an identified fishing location where green sturgeon are known to be concentrated still vulnerable to excessive catch and release fishing by fishing guides and anglers pushed off the upper river by the proposed closure.

Option 2: Special Sierra and Valley District Sturgeon Closure for varied dates from January 1 to December 31. The final range of dates will be determined by the Commission.

1. It is unlawful to fish for any sturgeon on the Sacramento River from Keswick Dam to the Highway 162 Bridge.
2. It is unlawful to use wire leaders.
3. It is unlawful to use lamprey or any type of shrimp as bait.

This proposal will provide maximum protection of green sturgeon.

For both options:

Amend Sections 5.79 and 27.92

The proposal is to add the following language as subsection (b)(6) and (c)(3) to both sections: If the sturgeon has a department reward disk attached, write the reward disk number in the space provided on the report card.

Revisions to Sturgeon Fishing Report Card

This proposed regulation change modifies the sturgeon sport card to add a check box to allow the angler to indicate if they did not fish for sturgeon during the year, add new catch areas, a field to record the number of a Department Reward Disk from tagged sturgeon. These proposed changes will assist analysis of the report card data.

Amend Section 5.88, subsection (b)(2), (b)(3), (b)(5), (b)(18), (b)(22), (b)(27), (b)(35), (b)(47), (b)(65), (b)(66), (b)(68), (b)(69), (b)(70), (b)(72), (b)(73), (b)(91.1), (b)(102), (b)(107), (b)(129), (b)(130), (b)(133), (b)(150), (b)(154), (b)(155), (b)(156), (b)(180), (b)(193), (b)(200), and (b)(212) of Section 7.50, and subsection (i) of Section 701

Title 14, California Code of Regulations

Re: Statewide Steelhead Regulation Alignment and Smith River Regulations

California's steelhead supports a popular sport fishery throughout California's coastal anadromous waters north of Santa Barbara and the Central Valley Basin. Since 1998, the majority of California steelhead has been Federally listed under the Endangered Species Act (ESA), and since 1999 only harvest of hatchery steelhead has been allowed in California, with the exception of the Smith River. The Steelhead Fishing Report–Restoration Card (SH Report Card) data show that hatchery steelhead stray into streams that do not have hatcheries and are caught by steelhead anglers in nearly every anadromous stream in California, with the exception of the Noyo River, where zero hatchery steelhead have been reported caught since 1999.

The Department believes harvesting surplus and stray hatchery steelhead will protect and increase wild steelhead resources. Contrary to management strategies from the last several decades, research and ensuing literature demonstrate that a key to protecting reproductive fitness of wild salmonids is to decrease/remove introgression by decreasing the number of hatchery salmonids spawning with wild salmonids. Although total prevention of introgression between surplus and stray hatchery steelhead and wild steelhead is unrealistic, proper angling regulations and angler education will be a vital factor in attaining resilient and sustainable wild steelhead populations.

With the exception of Iron Gate Hatchery on the Klamath River and the Mokelumne River Hatchery, California hatcheries meet their annual steelhead production goals and “surplus” hatchery steelhead remain in the river. This “surplus” has been “substantial,” which is good for the anglers; however, unharvested hatchery steelhead that compete with and spawn with wild steelhead likely harm success of wild steelhead stocks by reducing reproductive fitness of successive generations. Increasing allowable harvest of surplus hatchery steelhead will increase angler opportunity, harvest, and continued fishing, and will greatly benefit wild steelhead populations.

If the regulations proposed here are implemented, the Department believes the fundamental character of California’s steelhead fishing will be improved, while important fishery management and wild steelhead population management will be positively affected. In addition, the proposed regulations are intended to simplify statewide steelhead regulations, and simplify and provide for effective enforcement.

Proposal Overview

The Department is proposing steelhead angling regulations changes with the objective of meeting the following goals: 1) allow and encourage anglers to harvest “surplus” hatchery steelhead (adults in excess of number necessary to meet a hatchery’s production goals) that are allowed to spawn in the wild on streams with hatcheries, 2) allow and encourage anglers to harvest all hatchery steelhead that stray into streams without hatchery production, and 3) allow anglers to possess several daily bag limits of hatchery steelhead, which will encourage multi-day angling trips.

Present fishing regulations allow harvest of at least 1–2 hatchery steelhead daily. For public discussion, the Department’s proposal is a range of state-wide daily bag limit of hatchery steelhead from 1 to 3 fish and a range of hatchery steelhead in possession from 1–9 fish along a range of zero to one wild steelhead per year for the Smith River. The hatchery steelhead daily bag and possession limits are discussed as three options of 2 daily bag with 4 in possession, 3 daily bag with 6 in possession and 3 daily bag with 9 in possession in the following analysis.

The daily bag limit of up to 3 hatchery steelhead was developed from the SH Report Card data that shows the majority of steelhead anglers continue catch and release fishing rather than harvest their daily bag of one fish on most rivers. The daily bag limit of up to 3 hatchery steelhead will allow anglers to harvest hatchery steelhead and still continue fishing. Also a possession limit up to 9 hatchery steelhead (3X the daily bag limit) is proposed to encourage additional harvest of hatchery steelhead on multi-day (i.e., 3–day weekends) trips, boost trip

and angling value and opportunity to the angler, provide additional economic benefit, and allow additional harvest of hatchery steelhead.

Additional changes for the Smith River from the public recommendations have been included in this proposal. Elimination of the use of barbed hooks from the Smith River and an annual limit of no more than five wild Chinook salmon is proposed.

The SH Report is also proposed to have a new field to collect hours fished to track angler effort data. This proposed change will assist analysis of report card data.

Analysis of SH Report Card Data

Anglers are currently allowed to harvest 1 hatchery steelhead per day in the many of California streams. However, if the angler harvests the 1 hatchery steelhead they must stop fishing. Surveys of steelhead anglers have indicated that generally if they must choose between fishing for the day or harvesting a steelhead, the “angler tendency” is to continue fishing rather than fill their limit. The SH Report Card data show that in the Mad and Russian (and now in the Trinity) rivers, where harvest of 2 hatchery steelhead daily is allowed, anglers that can catch 2 or more hatchery steelhead generally keep zero or 1 hatchery steelhead and continue to catch and release. This results in the majority of hatchery steelhead caught by anglers annually are being released, which allows the hatchery steelhead to spawn naturally with wild steelhead.

With the exception of the Trinity River, steelhead possession limit currently equals daily bag limit. Non-local anglers in particular that do not return home at the end of their day, are essentially required to release all steelhead until the last day and last fish of their trip. For example, if an angler travels from out of state, or from Sacramento to fish the Smith River for a weekend, the angler is allowed to harvest one steelhead (possibly wild after numerous hatchery steelhead caught previously), but must cease fishing upon retention of that fish. With this, many anglers end up keeping none, as they released fish to keep fishing and were not fortunate enough to catch a steelhead near the end of their last day of fishing. Management-wise this is detrimental as it requires the angler to release all hatchery steelhead that will likely spawn with the wild steelhead; whereas the local angler can harvest one, return home to eat the catch and return the next day to harvest again. Still many hatchery steelhead may be released, but the Department expects potentially less with additional education.

Economically and value-wise, this is also a disadvantage to the non-local angler. The non-local angler is likely expending far more to benefit the local economy, yet is not able to harvest as many hatchery steelhead as the local angler. Increasing the possession limit in-

creases the potential value to the non-local angler in particular, and possibly an economic boost to local communities. Also wild steelhead populations are benefited by having additional hatchery steelhead removed from potentially spawning in the wild.

This regulation change would also allow the angler to fish several streams on a multi-day trip, and benefit several local communities. Taking the example above, say for a three-day weekend, the angler could fish the Smith River and harvest up to a daily bag limit, fish the Mad River the following day and harvest up to a daily bag limit, and fish the upper Sacramento or Feather River on the way home. Currently, if the angler harvests 1 steelhead on the Smith River, the angler would be done fishing for the weekend until they return home. Even though the daily bag and possession on the Mad River is currently 2 hatchery steelhead, and the Trinity River currently allows 2 hatchery steelhead daily and 4 in possession, this non-local angler could not stop to fish these streams because the possession limit was filled on the Smith River. However, the angler from Eureka could take a limit on the Smith on day one and return home, take 2 hatchery steelhead from the Mad on day two and return home, and fish the Trinity on day three and harvest 2 more hatchery steelhead and return home.

Enforcement-wise, a standard daily bag and possession is intended to simplify things for the angler and for wardens.

Since 2003 anglers have been required by law to return their SH Report Card to the Department. Though ideally there would be 100% compliance with the law by steelhead anglers, returns have continually been increasing annually; thus, confidence in these data for individual streams continues to increase. Although there is not 100% return, these data annually are considered a representative cross-section of all SH Report Card purchasers, as a matrix of anglers ranging from "Did not fish for steelhead" to anglers completely filling their SH Report Card, from "caught none" to catching several hundred steelhead per SH Report Card are returned. Data from the SH Report Cards corroborate the conjecture that 10%–20% of the anglers catch 80%–90% of the fish. A prominent number of anglers catch one (1) or even two (2) steelhead per trip, but few catch more than 2 per trip.

Proposed Options

Data from the SH Report Card from 2005, 2006 and 2007 were sorted by date and angler, and analyzed to predict potential harvest of hatchery steelhead per angler per stream under each alternative. The results were based on "full potential," where maximum daily harvest and possession were allotted, and if an angler skipped a day it was presumed they had returned home and their possession limit was "reset."

The analyses also assumed that the alternative considered was applicable even to streams where harvest of hatchery steelhead is not allowed. For discussion and presentation purposes, the results of these extensive analyses were averaged and summarized for the majority of California streams where harvest of hatchery steelhead is currently allowed.

Option 1

2 hatchery steelhead daily bag and 4 hatchery steelhead in possession

The analyses results of this option indicate that the Department's goal of harvesting the predominance of surplus and stray hatchery steelhead would seldom be met, though several streams were predicted to achieve a "high" ($\geq 90\%$) harvest level (i.e., Smith River, waters from Klamath River south to the Mad River, and the Navarro River). From Figure 1, it is evident that if indeed "angler tendency" corresponds with the predictive analyses, there would be a marked decrease in the percentage of hatchery steelhead released by anglers.

Fortuitously, in response to a phenomenal return of hatchery steelhead to the Trinity River in 2007 (est. 46,000), the Department changed the Trinity River steelhead regulations from 1 hatchery steelhead daily bag/1 in possession to 2 hatchery steelhead daily bag/4 in possession for 2008. The Department analyzed the 2008 SH Report Card data returned to-date for the Trinity River to evaluate "reality" (angler tendency) versus predicted potential.

The potential harvest of hatchery steelhead in the Trinity River under this alternative is 53% (Table 1), thus 47% were predicted to be released. As suspected, based on the supposition that anglers rather harvest less than the daily bag limit to continue fishing for the day, actual harvest of hatchery steelhead on the Trinity River was 15% in 2008, thus 85% of the hatchery steelhead caught by anglers were released. Less than 1% of 2008 Trinity River anglers (8 of 1,826) filled their possession limit of 4 hatchery steelhead.

Option 2

3 steelhead daily bag and 6 steelhead in possession

The analyses results of this option indicate that the Department's goal of harvesting the majority of surplus and stray hatchery steelhead intuitively would be potentially met more often than the 2 daily/4 possession option, and potentially more effectively harvest surplus hatchery steelhead on hatchery supported streams. On the Mad River under current regulations of 2 daily/2 in possession, an average of 306 hatchery steelhead were reported as harvested (52% of the catch). The 2/4 alternative would have potentially equated to a harvest of 439 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 497 hatchery steelhead (84% of the catch).

Similarly, on the Russian River under current regulations of 2 daily/2 in possession, an average of 657 hatchery steelhead were reported as harvested (56%). The 2/4 alternative would have potentially equated to a harvest of 963 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 1,048 hatchery steelhead (89%).

A marked difference could be realized in the American River, where current regulations allow harvest of 1 hatchery steelhead daily with 1 in possession, an average of 298 hatchery steelhead were reported as harvested (21%). The 2/4 alternative would have potentially equated to a harvest of 1,115 hatchery steelhead, and the 3 daily/6 in possession would have potentially equated to a harvest of 1,261 hatchery steelhead (88%).

However, based on the knowledge that anglers rather harvest less than the daily bag limit to continue fishing for the day, actual harvest of hatchery steelhead will likely be lower than the potential. Though this alternative is good, the Department's goal of harvesting a high proportion of surplus and stray hatchery steelhead would not be satisfactorily accomplished.

Option 3

3 steelhead daily bag and 9 steelhead in possession

Analyses results, though distant from the ultimate goal of harvesting 100% of the surplus and stray hatchery steelhead in California, is currently the best alternative for improving steelhead fishing opportunities, protecting wild steelhead resources, and being sensitive to public reaction to this management paradigm-shift.

Even at this level of allowable daily harvest, additional removal of hatchery steelhead is generally a small percentage increase in most streams. This is primarily a result of a limited number (10%–20%) of anglers fishing for steelhead on multiple days and catching 9 or more hatchery steelhead in three or more consecutive days; however, the Department believes providing opportunity for harvest of additional hatchery is prudent.

For example, the Yuba River is managed for "wild trout," yet 13% of the annual catch for 2003 to 2007 was hatchery steelhead, presumably strays from the Feather River Hatchery. Under the current regulations 91% were released on average (in reported numbers, that was 83 of 91 hatchery steelhead). Under Option 3, 84% of the 109 hatchery steelhead could have been harvested and removed from potentially spawning with the wild steelhead.

For the Smith River drainage, potentially an average of 96% of the hatchery steelhead straying upstream from Rowdy Creek could have been harvested, and possibly 86% of the hatchery steelhead in the Mad River could have been harvested. For the Trinity River, potentially 68% of the catch would have been harvested, thus 32% released; however, considering current "an-

gler tendency," it is estimated that 58% of the hatchery steelhead would be released in the Trinity River to spawn in the wild under Option 3.

Proposed Additional Smith River changes Smith River Wild Steelhead

Regarding reduced or no harvest of wild steelhead on the Smith River, SH Report Card data show that from 2003 to 2007 nearly as many wild steelhead were retained as hatchery steelhead (from Rowdy Creek Fish Hatchery) were released for the Smith River watershed. This is particularly prevalent in the mainstem and the Middle Fork Smith River.

From 2003 to 2007 SH Report Cards returned to the Department, a total of 2,914 wild steelhead were harvested, while 2,192 hatchery steelhead were released throughout the Smith River watershed. Though approximately 73% of the steelhead catch in the Smith River are wild and 75% of the wild steelhead are released, 51% of the hatchery steelhead caught in the Smith River are currently being released (Table 1). As mentioned above under Option 3 (3 daily/9 in possession), potentially 96% of the hatchery steelhead straying upstream from Rowdy Creek could have been harvested; however, even with Option 3 as much as 33% of the hatchery steelhead caught in the SF Smith River in 2005 would have been released to spawn in the wild.

The Department does not believe harvesting wild steelhead, and releasing hatchery steelhead accomplishes protection and sustainability of wild steelhead resources. The Department proposal is a range of zero to 1 wild steelhead per year on the Smith River to increase protection of wild steelhead.

Allow only Barbless Hooks in Smith River

Existing regulations for the Smith River allow barbed hooks during September through March in the Middle, North, and South Forks, and during September through April in the main stem.

In 1998, the Department, NOAA Fisheries, the Fish and Game Commission (Commission) banned barbed hooks for angling on all north coast anadromous waters. In 2004, the Commission changed Smith River regulations to the present language allowing barbed hooks. The change potentially increased salmon and steelhead hooking mortality and incidental take of threatened coho salmon. Additionally, the regulation change created inconsistent regulations for terminal gear in north coast anadromous waters.

In 2007, Fish and Game Code, Section 7149.45(a) was revised to expand the areas where anglers may use a second rod in California beginning in 2008. Anglers who have a second rod stamp may now fish with two rods in any inland water, except where only artificial lures or barbless hooks are allowed. A result is that anglers may now use two rods in the Smith River when

and where barbed hooks are allowed. Anglers using two rods and terminal gear with baited barbed hooks potentially catch more fish and increase hooking mortality.

This proposed regulation change would reenact the barbless hook requirement in the Smith River and would again standardize barbless terminal gear for north coast district anadromous waters. Use of second rods in the Smith River would not be allowed, thus reducing population risk potential for threatened anadromous salmonid species.

Create Annual Limit for Wild Smith River Chinook Salmon

Existing special regulations for the Smith River allow a bag and possession limit of 1 Chinook salmon, which may be a wild or hatchery fish. Hatchery fish are identifiable by fin markings. There is presently no limit on the numbers of wild or hatchery Chinook that may be kept per year. Additionally, the daily bag and possession limit regulations refer to Chinook salmon as “king” salmon, which is not the most widely used common name for the species; also those regulations do not state that the fish may be hatchery or wild.

Currently there is no comprehensive monitoring program in place on the Smith River to determine the relative strength of wild Chinook salmon populations. Adult Chinook salmon escapements to the Rowdy Creek hatchery, though not population estimates, have declined in recent years.

Typically wild salmonid populations mimic hatchery trends on those watersheds where hatcheries exist. One of the primary management goals for the Department should be to keep Smith River Chinook from being listed. In this case management actions such as more conservative fishing regulations are prudent. Coho salmon are presently the only anadromous salmonid species in the Smith River listed under State and Federal endangered species acts.

For the last three years 100% of the Chinook salmon produced at the Rowdy Creek Hatchery have been marked with an adipose fin clip and a Coded Wire Tag. Therefore the majority of hatchery origin adult Chinook salmon returning to the Smith River this year will bear identifying marks. The Department proposes an annual retention limit of 5 wild Smith River Chinook salmon in an effort to conserve wild stocks. This management action will allow limited harvest on wild stocks while still providing angling opportunity on hatchery stocks. Institution of the Salmon Harvest Card will allow for tracking and evaluation of the annual wild fish retention limit.

Additionally, “Chinook” salmon is the name most commonly used for the species throughout the fishing regulations, and along the west coast in general. Also, if there is to be a distinction between wild and hatchery

fish for the annual retention limit, some confusion may arise on whether the daily bag and possession limit applies only to wild fish or both hatchery and wild fish.

This proposed regulation change would limit the number of wild Chinook salmon that may be retained from the Smith River to a maximum of 5 fish per year. Additionally, the wording on the existing daily bag and possession limit would be changed from “king” salmon to “Chinook” salmon, and also indicate that the fish may be of hatchery or wild origin.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, 17980 County Road 94B, Woodland, California, on Thursday, October 1, 2009 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Yolo Fliers Club, 17980 County Road 94B, Woodland, California, on Thursday, November 5, 2009, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments may be submitted on or before Friday, October 30, 2009 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov, but must be received no later than Thursday, November 9, 2009 at the hearing in Woodland.

NOTICE IS FURTHER GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the State of California, Department of General Services Auditorium, Ziggurat Building, 707 Third Street, First Floor, West Sacramento, California, on December 10, 2009, at 8:30 a.m., to consider adoption of the proposed Sport Fishing Regulations for the 2010 through 2012 seasons. Additional testimony on the proposed regulations may be received if substantive changes result from the November 5, 2009, meeting or if regulatory alternatives are under consideration.

Draft environmental documents associated with the proposed regulatory actions are made available for comment commencing September 18, 2009. Oral or written comments relevant to these documents will be received at the November 5, 2009, meeting in Woodland. Written comments on these documents may be submitted to the Commission office (address given herein) until 5:00 p.m., November 5, 2009. Draft environmental documents are available for review at the Commission office and at the Department of Fish and Game’s headquarters office (same address as Commission). Copies of the documents are also available for review at the Department offices in Redding, Rancho

Cordova, Yountville, Fresno, Bishop, Eureka, Menlo Park, Monterey, Ontario and San Diego. NO WRITTEN COMMENTS ON THE DRAFT ENVIRONMENTAL DOCUMENTS WILL BE ACCEPTED AFTER 5:00 P.M. ON NOVEMBER 5, 2009.

The regulations as proposed in ~~strikeout~~–underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090, phone (916) 653–4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to John Carlson, Jr., or Jon D. Snellstrom at the preceding address or phone number.

Scott Barrow, Department of Fish and Game, phone (916) 445–7600, has been designated to respond to questions on the substance of the proposed regulations.

Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15–day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

Section 1.74, 5.87, 7.50, 8.00, and Section 701

Re: Report Card and Low–Flow Regulations

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

Sections 5.00, 5.30, 5.40, 5.82, 5.70, 5.83, and 7.50

Re: Sport Fishing Bag Limits

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

Sections 5.79, 5.80, 5.81, 27.92 and subsection (c) of Section 701

Re: Sturgeon Regulations

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. A small number of fishing guides are reported to target green sturgeon with their clients, which would not result in a significant statewide adverse economic impact.

Section 5.88, subsection (b)(2), (b)(3), (b)(5), (b)(18), (b)(22), (b)(27), (b)(35), (b)(47), (b)(65), (b)(66), (b)(68), (b)(69), (b)(70), (b)(72), (b)(73), (b)(91.1), (b)(102), (b)(107), (b)(129), (b)(130), (b)(133), (b)(150), (b)(154), (b)(155), (b)(156), (b)(180), (b)(193), (b)(200), and (b)(212) of Section 7.50, and subsection (i) of Section 701

Re: Statewide Steelhead Regulation Alignment and Smith River Regulations

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource, while increasing statewide fishing opportunities, and therefore preventing adverse economic impacts.

All Proposed Sections

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

All Proposed Sections

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

All Proposed Sections

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:
None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

DECISION NOT TO PROCEED

BOARD OF FORESTRY AND FIRE PROTECTION

September 25, 2009

Title 14 of the California Code of Regulations

Watersheds with Threatened or Impaired Values Extension, 2009

Pursuant to Government Code section 11347, the State Board of Forestry and Fire Protection has decided

not to proceed with Watersheds with Threatened or Impaired Values Extension, 2009, in Title 14, Division 1.5, of the California Code of Regulations, Notice File No. Z-2009-0731-01, published August 14, 2009 in REGISTER 2009 Z-33, page 1285.

OAL REGULATORY DETERMINATION

OFFICE OF ADMINISTRATIVE LAW

DETERMINATION OF ALLEGED UNDERGROUND REGULATION (Summary Disposition)

(Pursuant to Government Code Section 11340.5 and Title 1, section 270, of the California Code of Regulations)

2009 OAL DETERMINATION NO. 20(S)

Date: September 8, 2009

To: Cory Hoch

From: Chapter Two Compliance Unit

Subject: **2009 OAL DETERMINATION NO. 20 (S) (CTU2009-0708-01)**
(Summary Disposition issued pursuant to Gov. Code, sec. 11340.5; Cal. Code Regs., tit. 1, sec. 270(f))

Petition challenging as an underground regulation Sexual Violent Predator Guidelines issued by the Los Angeles County Sheriffs Department

On July 8, 2009, you submitted a petition to the Office of Administrative Law (OAL) asking for a determination as to whether "141 'F' Pod Sexual Violent Predator Guidelines," (Guidelines) issued by the Los Angeles County Sheriff's Department (LASD), constitutes an underground regulation. You did not attach a copy of these guidelines, but you did attach copies of the "Sexual Violent Predators, Module 131, 'A' Pod Inmates Guidelines and the "Civil Commitments—Sexual Violent Predator Inmate Guidelines," both of which are also issued by the LASD. You allege in your petition that the Guidelines are "being illegally and/or unconstitutionally enforced." You also allege that the Guidelines "have not been properly promulgated in accordance with the Administrative Procedures Act."

In issuing a determination, OAL renders an opinion only as to whether a challenged rule is a "regulation" as

defined in Government Code section 11342.600, which should have been, but was not adopted pursuant to the Administrative Procedure Act (APA).¹ Nothing in this analysis evaluates the advisability or the wisdom of the underlying action or enactment. OAL has neither the legal authority nor the technical expertise to evaluate the underlying policy issues involved in the subject of this determination.

California Code of Regulations, title 1, section 260 permits any interested person to submit a petition to OAL alleging that a state agency has issued, used, enforced, or attempted to enforce an underground regulation and seeking a determination from OAL pursuant to Section 11340.5 of the Government Code. Government Code section 11340.5 prohibits the following:

No *state agency* shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State pursuant to this chapter [the APA]. [Emphasis added.]

Government Code section 11342.600 defines “regulation” as:

“Regulation” means every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard *adopted by any state agency* to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. [Emphasis added.]

The APA applies only to state agencies. The Los Angeles County Sheriff’s Department is not a state agency; therefore, its rules cannot be underground regulations pursuant to the APA.

For the reasons discussed above, we find that the rule challenged by your petition is not an underground regulation.²

¹ Such a rule is called an “underground regulation” as defined in California Code of Regulations, title 1, section 250, subsection (a):

“Underground regulation” means any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, including a rule governing a state agency procedure, that is a regulation as defined in section 11342.600 of the Government Code, but has not been adopted as a regulation and filed with the Secretary of State pursuant to the APA and is not subject to an express statutory exemption from adoption pursuant to the APA.

² The rule challenged by your petition is the proper subject of a summary disposition letter pursuant to title 1, section 270 of the California Code of Regulations. Subdivision (f) of section 270 provides:

(Footnote 2 continued on next column)

The issuance of this summary disposition does not restrict your right to adjudicate the alleged violation of section 11340.5 of the Government Code.

/s/

Linda C. Brown
for SUSAN LAPSLEY
Director

/s/

George Shaw
Staff Counsel

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2009-0804-01

AIR RESOURCES BOARD

Outboard Marine Tanks and Components

This rulemaking action establishes manufacturing standards for marine outboard motor remote gas tanks, gas caps, supply hoses, and priming bulbs so as to reduce gasoline vapor emissions from these devices. The rulemaking sets the maximum allowable loss at a level consistent with already-regulated smaller fuel containers. It exempts previously manufactured tanks and

(Continuation of footnote 2)

(f)(1) If facts presented in the petition or obtained by OAL during its review pursuant to subsection (b) demonstrate to OAL that the rule challenged by the petition is not an underground regulation, OAL may issue a summary disposition letter stating that conclusion. A summary disposition letter may not be issued to conclude that a challenged rule is an underground regulation.

(2) Circumstances in which facts demonstrate that the rule challenged by the petition is not an underground regulation include, but are not limited to, the following:

(A) The challenged rule has been superseded.

(B) The challenged rule is contained in a California statute.

(C) The challenged rule is contained in a regulation that has been adopted pursuant to the rulemaking provisions of the APA.

(D) The challenged rule has expired by its own terms.

(E) An express statutory exemption from the rulemaking provisions of the APA is applicable to the challenged rule.

components and those not slated for sale in California. It allows for the sale of innovative products that comply with these emission standards but which cannot go through the prescribed testing procedures. It requires certain labeling of certified products. It includes a variance provision to excuse manufacturers who, due to circumstances beyond their control, would suffer extraordinary financial hardship from compliance if they meet their burden of proof and submit a plan for coming into compliance. It incorporates a certification procedure document and two testing procedure documents for the various standards for tanks and related components. It includes an enforcement provision for violations.

Title 13

California Code of Regulations

ADOPT: 2468, 2468.1, 2468.2, 2468.3, 2468.4, 2468.5, 2468.6, 2468.7, 2468.8, 2468.9, 2468.10

Filed 09/16/2009

Effective 10/16/2009

Agency Contact: Trini Balcazar (916) 445-9564

File# 2009-0827-04

BOARD OF PODIATRIC MEDICINE

Fingerprint Requirements

This rulemaking is being undertaken to establish the mandatory submission of fingerprints to the Department of Justice for a state and federal level criminal offender record information search. These newly adopted regulations would require all licensees that do not currently have their fingerprints on electronic record with the DOJ to provide fingerprints. These regulations would exempt disabled licensees, inactive and retired licensees and active military personnel if they are stationed outside the US. Further the regulations would require licensees to disclose criminal convictions (except traffic infractions) and disciplinary actions taken against his or her license. Finally the regulations would specify that no license may be issued or renewed unless fingerprints have been submitted and the licensee has reported any criminal convictions or disciplinary actions.

Title 16

California Code of Regulations

ADOPT: 1399.720, 1399.721, 1399.722, 1399.723, 1399.724, 1399.725

Filed 09/16/2009

Effective 10/16/2009

Agency Contact:

Mischa Matsunami (916) 263-0315

File# 2009-0818-03

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

Public Infrastructure Advisory Commission (PIAC)

This filing is a certificate of compliance for an emergency regulatory action which established the procedures for the Public Infrastructure Advisory Commission (PIAC).

Title 21

California Code of Regulations

ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711

Filed 09/16/2009

Agency Contact: Jim Bourgart (916) 323-5412

File# 2009-0803-01

DEPARTMENT OF FOOD AND AGRICULTURE

Light Brown Apple Moth Interior Quarantine

This is the resubmission of the certificate of compliance (2009-0320-03 C) for prior emergency actions (2008-0905-04 E, 2008-0919-01E and 2008-1007-01E) with respect to the light brown apple moth (LBAM; *Epiphyas postvittana*). The emergency files concerned an expansion of quarantine areas in Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Mateo, Santa Clara, Santa Cruz and Solano counties.

Title 3

California Code of Regulations

AMEND: 3434(b)

Filed 09/15/2009

Agency Contact:

Stephen S. Brown (916) 654-1017

File# 2009-0903-04

DEPARTMENT OF FOOD AND AGRICULTURE

Light Brown Apple Moth Interior Quarantine

This is the readoption of two emergency actions (OAL file number 2009-0324-02E and 2009-0420-01E) with respect to quarantine areas for the light brown apple moth (LBAM; *Epiphyas postvittana*). OAL file number 2009-0324-02E expanded the regulated area in Alameda and Marin counties by approximately 61 square miles and the regulated area in Solano and Sonoma counties by approximately 11 square miles. OAL file number 2009-0420-01E established new regulated areas in Napa of approximately 19 square miles and in the Hollister area of San Benito County of approximately 16 square miles, as well as the Cotati and Rohnert areas of approximately 13 square miles and the Healdsburg area of Sonoma of approximately 16 square miles.

Title 3
California Code of Regulations
AMEND: 3434(b)
Filed 09/09/2009
Effective 09/09/2009
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2009-0903-05
DEPARTMENT OF FOOD AND AGRICULTURE
Asian Citrus Psyllid Interior Quarantine

This is the readoption of an action that added the central southern portion of Riverside County to the area quarantined to help prevent the spread of the Asian Citrus Psyllid, associated bacteria, and Citrus Greening disease.

Title 3
California Code of Regulations
AMEND: 3435(b)
Filed 09/14/2009
Effective 09/14/2009
Agency Contact:
Stephen S. Brown (916) 654-1017

File# 2009-0730-01
DEPARTMENT OF FOOD AND AGRICULTURE
Trade Secrets

This proposed regulatory action will require manufacturers of fertilizing materials to provide information on the composition of their fertilizing materials, and to specify what information is required for purposes of verifying safety or efficacy. The proposed regulations will also establish procedures for manufacturers to follow when designating information as "trade secrets," and describe the conditions of confidentiality for when the Secretary will or will not disclose trade secret information. The regulations will also provide a definition for "trade secret," "active ingredient," and "inert ingredient."

Title 3
California Code of Regulations
ADOPT: 2300.1, 2300.2, 2300.3 AMEND: 2300
Filed 09/10/2009
Effective 01/01/2010
Agency Contact: Kent Kitade (916) 445-0444

File# 2009-0731-02
DEPARTMENT OF MENTAL HEALTH
Assessment of Sexually Violent Predators

This is the certificate of compliance that makes permanent the prior emergency regulatory action (OAL

file no. 2009-0130-01E) that established part of the standardized assessment protocol used to determine whether a person is a sexually violent predator. The evaluator shall apply tests or instruments along with other static and dynamic risk factors when making the assessment. The tests, instruments and risk factors must have gained professional recognition or acceptance in the field of diagnosing, evaluating or treating sexual offenders and be appropriate to the particular patient and applied on a case-by-case basis. The term "professional recognition or acceptance" is defined in the regulations.

Title 9
California Code of Regulations
ADOPT: 4000, 4005
Filed 09/14/2009
Agency Contact: Jon Cordova (916) 657-8554

File# 2009-0729-02
DEPARTMENT OF WATER RESOURCES
Model Water Efficient Landscape Ordinance

This is the timely resubmission of an action that will update the Department's model water efficient landscape ordinance.

Title 23
California Code of Regulations
ADOPT: 490.1, 492.1, 492.2, 492.3, 492.4, 492.5, 492.6, 492.7, 492.8, 492.9, 492.10, 492.11, 492.12, 492.13, 492.14, 492.15, 492.16, 492.17, 493.1, 493.2 AMEND: 490, 491, 492, 493, 494 REPEAL: 495
Filed 09/10/2009
Effective 09/10/2009
Agency Contact:
Manucher Alemi (916) 651-9662

File# 2009-0824-02
FISH AND GAME COMMISSION
Waterfowl, Migratory, American Coot and Common Moorhen

This regulatory action establishes specific season lengths and daily bag limits. Several non-substantive changes are made to conform to Federal framework regulations.

Title 14
California Code of Regulations
AMEND: 502
Filed 09/15/2009
Effective 09/15/2009
Agency Contact:
Sherrie Fonbuena (916) 654-9866

File# 2009-0731-04

PUBLIC EMPLOYEES RETIREMENT SYSTEM
Participation in Risk Pool Amendments

The California Public Employees Retirement System proposed this rulemaking action to amend sections 588.1 and 588.2 of title 2, California Code of Regulations, pertaining to agency participation in risk pools, as authorized in Government Code section 20840.

Title 2

California Code of Regulations

AMEND: 588.1, 588.2

Filed 09/14/2009

Effective 10/14/2009

Agency Contact: Joe Parilo (916) 326-3484

File# 2009-0806-04

STATE WATER RESOURCES CONTROL BOARD
Orphan Site Cleanup Fund

This regulatory action repeals regulations relating to the statute that established the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Account (OSCA) that was repealed January 1, 2008. On January 1, 2009, the Underground Storage Tank Petroleum Contamination Orphan Site Cleanup Fund (Orphan Site Cleanup Fund) was established. The regulations proposed for adoption implement the Orphan Site Cleanup Fund that provides funds for cleaning up brownfields. Brownfields are abandoned or underused commercial or industrial properties, where the expansion or redevelopment is hindered by contamination. The proposed regulations define eligible sites, eligible applicants, and eligible costs and establish eligibility requirements, a priority system for paying eligible applicants, and funding limitations. The regulations also define the types of costs that qualify for funding.

Title 23

California Code of Regulations

ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37

Filed 09/16/2009

Effective 10/16/2009

Agency Contact: Judy Reid (916) 341-5760

File# 2009-0803-02

STATE WATER RESOURCES CONTROL BOARD
Policy on Supplemental Environmental Projects

This action adopts the Board's policy on Supplemental Environmental Projects that may be used as a means for a discharger that has been assessed civil liability for a violation of law the option to pay for a project that will provide a benefit to water quality as part of its penalty.

Title 23

California Code of Regulations

ADOPT: 2910.1

Filed 09/15/2009

Effective 09/15/2009

Agency Contact: Ann Marie Ore (916) 327-8195

File# 2009-0818-04

STATE WATER RESOURCES CONTROL BOARD
Indicator Bacteria, Baby Beach and Shelter Island Shoreline Park

This action is SWRCB's approval of the San Diego Regional Water Quality Control Board's amendments of the San Diego Regional Basin Plan. On June 11, 2008, the San Diego Regional Water Quality Control Board adopted Resolution R9-2008-027 amending the Water Quality Control Plan for the San Diego Region (Basin Plan) by establishing the Total Maximum Daily Load (TMDL) for indicator bacteria in Baby Beach in Dana Point Harbor and Shelter Island Shoreline Park in San Diego Bay. On June 16, 2009, the State Water Resources Control Board approved this amendment under Resolution No. 2009-0053.

Title 23

California Code of Regulations

ADOPT: 3989.9

Filed 09/15/2009

Effective 09/15/2009

Agency Contact: Nirmal Sandhar (916) 341-5571

File# 2009-0805-03

STRUCTURAL PEST CONTROL BOARD
Armed Services Exemption/Structural Integrated Pest

The Structural Pest Control Board (Board) proposed to adopt section 1950.1 and amend section 1984 of Title 16 of the California Code of Regulations. The Board's adoption of section 1950.1 adds an exemption for licensed individuals who fail to renew their license due to their participation in the United States armed services. The Board is amending section 1984 to amend the definition of Integrated Pest Management.

Title 16

California Code of Regulations

ADOPT: 1950.1 AMEND: 1984

Filed 09/16/2009

Effective 10/16/2009

Agency Contact: Susan Saylor (916) 263-2540

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN April 15, 2009 TO
September 16, 2009**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

09/14/09 AMEND: 588.1, 588.2
08/31/09 ADOPT: 1859.324.2 AMEND:
1859.302, 1859.324.1, 1859.330
08/03/09 ADOPT: 647.5, 647.25, 647.36, 647.37.1
AMEND: 647.1, 647.2, 647.3, 647.4,
647.20, 647.20.1, 647.22, 647.23,
647.24, 647.26, 647.30, 647.31, 647.32,
647.33, 647.35, 647.38 REPEAL:
647.25, 647.34
07/30/09 ADOPT: 1899.570, 1899.575, 1899.580,
1899.585
07/20/09 ADOPT: 721
07/07/09 AMEND: 18450.4
07/06/09 AMEND: 18940.2
06/15/09 ADOPT: 18746.4 AMEND: 18741.1,
18746.1, 18746.3
06/12/09 ADOPT: 649.14, 649.17, 649.18, 649.23,
649.25, 649.29, 649.32, 649.33, 649.48
AMEND: 647.4, 649, 649.2, 649.4,
649.7, 649.8, 649.11, 649.12, 649.13,
649.15, 649.16, 649.22, 649.24, 649.26,
649.27, 649.28, 649.30, 649.31, 649.35,
649.36, 649.50, 649.51, 649.57, 649.58,
649.59, 649.62 REPEAL: 649.3, 649.6,
649.9, 649.10, 649.14, 649.23, 649.25
06/09/09 ADOPT: 18405
06/01/09 ADOPT: 250.1
05/21/09 AMEND: 18705.1
05/14/09 ADOPT: 21000, 21001, 21002, 21003,
21004, 21005, 21006, 21007, 21008,
21009
05/08/09 ADOPT: 18410 AMEND: 18402
04/30/09 AMEND: 1859.129, 1859.197
04/28/09 AMEND: div. 8, ch. 111, section 59560

Title 3

09/15/09 AMEND: 3434(b)
09/14/09 AMEND: 3435(b)
09/10/09 ADOPT: 2300.1, 2300.2, 2300.3
AMEND: 2300
09/09/09 AMEND: 3434(b)

09/03/09 AMEND: 3434(b)
09/01/09 AMEND: 3435(b)
08/28/09 AMEND: 3434(b)
08/27/09 AMEND: 3435(b)
08/27/09 AMEND: 3588
08/26/09 AMEND: 6400, 6502, 6620,
6626(a)-(b), 6626(c), 6627, 6670, 6672,
6736, and incorporated by reference
forms
08/20/09 AMEND: 3406(b)
08/20/09 AMEND: 3591.13(a)
08/13/09 AMEND: 3434(b)
08/13/09 AMEND: 6618, 6619, 6761.1, 6770,
6771
08/12/09 ADOPT: 902.15
08/07/09 AMEND: 3406(b)
08/05/09 AMEND: 3434(b), 3434(c)
08/04/09 AMEND: 3423(b)
07/31/09 ADOPT: 3436
07/24/09 AMEND: 3434(b)
07/22/09 ADOPT: 3591.23
07/22/09 AMEND: 3406(b)
07/21/09 AMEND: 3591.2(a)
07/20/09 AMEND: 3591.20(a)
07/13/09 AMEND: 625
07/07/09 AMEND: 3435
07/02/09 AMEND: 3423(b)
06/30/09 AMEND: 3434(b)
06/22/09 AMEND: 3434(b)
06/19/09 AMEND: 3591.20(a)
06/15/09 AMEND: 3406(b)
06/15/09 AMEND: 3434(b)
06/01/09 AMEND: 3406(b)
06/01/09 ADOPT: 3408
05/26/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/20/09 AMEND: 3434(b)
05/13/09 AMEND: 6800
05/04/09 AMEND: 3434(b)
04/27/09 AMEND: 3434(b)
04/20/09 AMEND: 6452.2

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08/25/09 ADOPT: 12380, 12381, 12384, 12385,
12386 AMEND: 12360
08/04/09 AMEND: 1853
07/31/09 AMEND: 10020
07/31/09 ADOPT: 7051, 7052, 7053, 7054, 7055,
7056, 7057, 7058, 7059, 7060, 7061,
7062, 7063, 7064, 7065, 7066, 7067,
7068, 7069, 7070, 7071
07/21/09 AMEND: 1979, 1979.1
07/21/09 REPEAL: 1950.1
06/25/09 ADOPT: 12486
06/22/09 ADOPT: 8078.1 AMEND: 8070, 8072,
8076, 8078

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| 06/04/09 | AMEND: 106 | 05/01/09 | AMEND: 4530 |
| 05/18/09 | ADOPT: 12488, 12508, 12510, 12511, 12514 AMEND: 12480, 12486 | 04/20/09 | AMEND: 10100.2, 10101.1, 10103.2, 10104, 10105, 10106.1, 10106.5, 10107.1, 10108, 10109, 10111.1, 10111.2, 10112, 10113.4, 10113.5, 10114.2, 10115, 10115.1, 10115.2 |
| 05/18/09 | ADOPT: 12482 | Title 9 | |
| 05/12/09 | AMEND: 406 | 09/14/09 | ADOPT: 4000, 4005 |
| 05/12/09 | ADOPT: 12591 | 08/04/09 | AMEND: 7331 |
| 04/24/09 | ADOPT: 12480, 12492, 12494, 12496, 12498, 12499, 12501, 12502, 12504 AMEND: 12482 | 06/29/09 | ADOPT: 10700, 10701 AMEND: 10518, 10529 REPEAL: 10532, 10533 |
| 04/24/09 | AMEND: 12482 | 06/26/09 | ADOPT: 7212.1, 7212.2, 7212.3, 7212.4 AMEND: 7210, 7211, 7212 |
| Title 5 | | Title 10 | |
| 08/20/09 | ADOPT: 19825.1 AMEND: 19816, 19816.1, 19825, 19825.1 (renumber to 19825.2) | 08/19/09 | AMEND: 2699.6707, 2699.6711, 2699.6721, 2699.6723, 2699.6725, 2699.6809 |
| 07/21/09 | ADOPT: 43200 | 08/04/09 | ADOPT: 2355.1, 2355.2 AMEND: 2359.4 amended and renumbered to 2355.3, 2359.7 renumbered to 2355.4, 2359.8 renumbered to 2355.5 REPEAL: 2355.1, 2355.2, 2355.3, 2355.4, 2355.5, 2355.6, 2355.7, 2355.8, 2356.1, 2356.2, 2356.3, 2356.4, 2356.5, 2356.6, 2356.7, 2356.8, 2356.9, 2357.1, 2357.2, 2357.3, 2357.4, 2357.5, 2357.6, 2357.7, 2357.8, 2357.9, 2357.10, 2357.11, 2357.12, 2357.13, 2357.14, 2357.15, 2357.16, 2357.17, 2357.18, 2357.19, 2358.1, 2358.2, 2358.3, 2358.4, 2358.5, 2358.6, 2358.7, 2358.8, 2358.9, 2359.1, 2359.2, 2359.3, 2359.5, 2359.6 |
| 07/21/09 | ADOPT: 43220 | | |
| 07/21/09 | AMEND: 42920 | | |
| 07/21/09 | ADOPT: 40411 | | |
| 07/09/09 | AMEND: 18100 | | |
| 07/03/09 | ADOPT: 80027.1, 80048.7 AMEND: 80027 | | |
| 06/29/09 | ADOPT: 19821.5, 19825.1, 19828.4, 19837.3, 19839, 19845.2 AMEND: 19815, 19816, 19816.1, 19828.3, 19837.2, 19845.1, 19846 | | |
| 05/28/09 | AMEND: 9521 | | |
| 05/11/09 | AMEND: 80023, 80024.4, 80024.5, 80024.6, 80025.5, 80026, 80026.1, 80026.6, 80034.5 REPEAL: 80024.3, 80026.4, 80042, 80042.5, 80569 | | |
| 05/11/09 | AMEND: 24002, 24003, 24005 | | |
| 05/07/09 | ADOPT: 3090, 3090.1, 3091, 3092, 3093, 3094, 3095, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099 | 07/29/09 | ADOPT: 2194.50, 2194.51, 2194.52, 2194.53, 2194.54, 2194.55 |
| 04/30/09 | ADOPT: 26000 | 07/14/09 | ADOPT: 2359.8 |
| Title 8 | | 07/09/09 | AMEND: 2797 |
| 08/31/09 | AMEND: 3385 | 07/06/09 | AMEND: 250.30 |
| 08/27/09 | AMEND: 3400 | 06/24/09 | AMEND: 2498.4.9 |
| 07/31/09 | AMEND: 1637, 1646 | 06/24/09 | AMEND: 2498.4.9 |
| 07/27/09 | AMEND: 5006.1 | 06/24/09 | AMEND: 2498.4.9 |
| 07/24/09 | AMEND: 3466 | 06/24/09 | AMEND: 2498.4.9 |
| 07/23/09 | AMEND: 1598, 1599 | 06/01/09 | ADOPT: Article 1, 2031.1, 2031.2, 2031.3, 2031.4, 2031.5, 2031.6, Article 2, 2031.7, 2031.8, Article 3, 2031.9, Article 4, 2031.10 |
| 07/06/09 | ADOPT: 5199 | 06/01/09 | ADOPT: 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 4.10 |
| 07/06/09 | ADOPT: 5199.1 | 06/01/09 | ADOPT: 2850.1, 2850.2, 2850.3, 2850.4, 2850.5, 2850.6, 2850.7, 2850.8, 2850.9, 2850.10 |
| 06/22/09 | AMEND: 230.1 | 05/29/09 | ADOPT: 5500, 5501, 5502, 5503, 5504, 5505, 5506, 5507 |
| 06/18/09 | ADOPT: 9792.23.1, 9792.23.2, 9792.23.3, 9792.23.4, 9792.23.5, 9792.23.6, 9792.23.7, 9792.23.8, 9792.23.9, 9792.24, 9792.24.1, 9792.24.2, 9792.24.3, 9792.25, 9792.26 AMEND: 9792.20, 9792.21, 9792.22, 9792.23 | 05/12/09 | AMEND: 2716.1, 2790.1.5, 2810.5 |
| 05/01/09 | AMEND: 3030, 3037, 3089, 3097, 3098, 3101, 3107 | 05/01/09 | AMEND: 2699.6603 |

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05/21/09 AMEND: 1005, 1007, 1008
04/17/09 AMEND: 30.1

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09/16/09 ADOPT: 2468, 2468.1, 2486.2, 2468.3,
2468.4, 2468.5, 2468.6, 2468.7, 2468.8,
2468.9, 2468.10
09/01/09 AMEND: 2222
08/24/09 AMEND: 2193
08/12/09 AMEND: 2020(b)
07/29/09 AMEND: 599
07/17/09 AMEND: 2111, 2112, Appendix A, 2139,
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2443.3, 2444.1, 2444.2, 2445.1, 2445.2,
2446, 2447, 2474, Documents
Incorporated by Reference REPEAL:
2448
06/29/09 AMEND: 2702, 2704
06/16/09 AMEND: 1239
06/04/09 ADOPT: 2340, 2341, 2342, 2343, 2344,
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05/22/09 ADOPT: 225.38 AMEND: 225.00,
225.03, 225.06, 225.09, 225.21, 225.35,
225.45, 225.48, 225.54, 225.72

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05/29/09 ADOPT: Title 13: 2299.2, Title 17:
93118.2 AMEND: Title 13: 2299.1, Title
17: 93118

Title 14

09/15/09 AMEND: 502
08/25/09 AMEND: 257, 300, 311, 313
08/24/09 ADOPT: 749.4
07/14/09 AMEND: 124
07/13/09 AMEND: 163
06/23/09 AMEND: 3959(b)(4)
06/23/09 ADOPT: 4351.1 AMEND: 4351
06/16/09 AMEND: 753.5
06/15/09 AMEND: 27.80
06/12/09 AMEND: 265, 353, 360, 361, 362, 363,
364, 555, 708
06/02/09 AMEND: 7.50(b)(91.1)
05/26/09 AMEND: 7.00, 7.50
05/21/09 AMEND: 7.50(b)(178)
05/15/09 AMEND: 790, 818.02, 827.02
05/14/09 ADOPT: 874.2.5 AMEND: 790, 873.1,
873.2, 873.4, 873.5, 873.7, 874.2, 877.2,
877.3 REPEAL: 873.3
05/13/09 AMEND: 25201
05/07/09 AMEND: 25201
05/04/09 AMEND: 670.5
04/27/09 ADOPT: 749.5

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08/18/09 ADOPT: 1800, 1806, 1812, 1814, 1830,
1831, 1840, 1847, 1848, 1849, 1850,

1851, 1852, 1853, 1854, 1856, 1857,
1860, 1866, 1867, 1868, 1870, 1872,
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08/11/09 AMEND: 2253
08/11/09 ADOPT: 3650, 3651, 3652, 3653, 3654
REPEAL: 3652.1
07/28/09 ADOPT: 3077, 3077.1, 3077.2, 3077.3,
3077.4 AMEND: 3000, 3043.6, 3375
06/17/09 ADOPT: 3640, 3730 AMEND: 3500,
3501, 3502, 3600, 3610, 3620, 3625,
3630, 3740
06/17/09 ADOPT: 3099
05/12/09 AMEND: 3000, 3190, 3375, 3376.1,
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05/04/09 AMEND: 3335(d)(3)
04/20/09 AMEND: 1004, 1006, 1007, 1008, 1012,
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1040, 1044, 1045, 1046, 1055, 1056,
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1241, 1243, 1245, 1247, 1262, 1272

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09/16/09 ADOPT: 1950.1 AMEND: 1984
09/16/09 ADOPT: 1399.720, 1399.721, 1399.722,
1399.723, 1399.724, 1399.725
09/08/09 AMEND: 2310
08/24/09 AMEND: 4161
08/11/09 AMEND: 2504.1, 2517.5, 2537, 2540.6,
2564.1, 2575.5, 2590, 2592.6
08/05/09 AMEND: 995
08/05/09 AMEND: 1399.15
08/04/09 ADOPT: 1773.5 AMEND: 1773
07/28/09 AMEND: 4110
07/27/09 AMEND: 4130
07/24/09 AMEND: 1391.10, 1391.12
07/24/09 AMEND: 1387, 1387.6
07/17/09 AMEND: 1999.5
06/26/09 ADOPT: 2611 AMEND: 2606, 2614,
2615, 2616, 2621, 2649 REPEAL: 2612,
2613, 2623
06/26/09 AMEND: 426.51
06/16/09 AMEND: 1524
06/12/09 AMEND: 2021, 2068.5, 2068.6
REPEAL: 2067, 2068
06/03/09 AMEND: 1888
06/02/09 AMEND: 1419, 1419.1, 1419.3
05/20/09 ADOPT: 1815 AMEND: 1886.40
04/28/09 AMEND: 1524
04/27/09 AMEND: 1760

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09/01/09 ADOPT: 95360, 95361, 95362, 95363,
95364, 95365, 95366, 95367, 95368,
95369, 95370
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| 08/13/09 | AMEND: 6500.74, 6500.77 | Title 23 | |
| 06/18/09 | AMEND: 94508, 94509, 94510, 94512, 94513, 94515 | 09/16/09 | ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 REPEAL: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37 |
| 04/24/09 | AMEND: 30100, 30346.1, 30373 | 09/15/09 | ADOPT: 2910.1 |
| Title 18 | | 09/15/09 | ADOPT: 3989.9 |
| 07/30/09 | AMEND: 1668 | 09/10/09 | ADOPT: 490.1, 492.1, 492.2, 492.3, 492.4, 492.5, 492.6, 492.7, 492.8, 492.9, 492.10, 492.11, 492.12, 492.13, 492.14, 492.15, 492.16, 492.17, 493.1, 493.2 AMEND: 490, 491, 492, 493, 494 REPEAL: 495 |
| 06/04/09 | AMEND: 1532, 1533.1, 1533.2, 1534, 1535 | 08/05/09 | ADOPT: 3959.2 |
| 05/21/09 | AMEND: 25114 | 07/09/09 | ADOPT: 3959.3 |
| 05/12/09 | AMEND: 1502 | 06/25/09 | ADOPT: 3989.8 |
| 04/29/09 | AMEND: 1591 | 06/16/09 | ADOPT: 3939.36 |
| Title 20 | | 06/01/09 | ADOPT: 2631.2 |
| 08/03/09 | AMEND: 1670, 1671, 1672, 1673, 1674, 1675 | 05/14/09 | ADOPT: 2920 |
| 07/10/09 | AMEND: 1601, 1602, 1604, 1605.3, 1606 | Title 25 | |
| 07/10/09 | AMEND: 1601, 1602, 1603, 1604, 1605.1, 1605.2, 1605.3, 1606, 1607, 1608 | 09/08/09 | ADOPT: 7980, 7980.1, 7982, 7982.1, 7982.2, 7982.3, 7982.4, 7983, 7983.1, 7983.2, 7983.3, 7983.4, 7983.5, 7984, 7984.1, 7984.2 |
| 06/23/09 | AMEND: 3.1, 3.2, 4.3, 8.6, 10.3, 11.3, 13.2 | 08/19/09 | ADOPT: 4200, 4202, 4204, 4205, 4206, 4208, 4210, 4212, 4214, 4216 |
| 06/04/09 | AMEND: 1.4, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 2.3, 2.6, 3.2, 3.6, 8.1, 8.2, 8.3, 11.6, 13.9, 14.2, 14.3, 14.6, 15.2, 17.3, 17.4, 18.1 | 05/22/09 | ADOPT: 4200, 4202, 4204, 4206, 4208, 4210, 4212, 4214, 4216 |
| 04/22/09 | ADOPT: 3100, 3101, 3101.5, 3102, 3103, 3104, 3105, 3106, 3107, 3108 | 05/20/09 | AMEND: 8217 |
| Title 21 | | 05/13/09 | ADOPT: 6932 REPEAL: 6932 |
| 09/16/09 | ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711 | 05/07/09 | ADOPT: 6932 REPEAL: 6932 |
| 06/22/09 | ADOPT: 7700, 7701, 7702, 7703, 7704, 7705, 7706, 7707, 7708, 7709, 7710, 7711 | Title 27 | |
| 05/14/09 | AMEND: 1554, 1556 | 07/23/09 | AMEND: 25204 |
| Title 22 | | Title MPP | |
| 08/31/09 | ADOPT: 2706-7 | 08/31/09 | ADOPT: 31-021 AMEND: 31-003, 31-410, 31-501 |
| 07/31/09 | AMEND: 80001, 85002 and 85068.4 | 07/06/09 | ADOPT: 31-003, 31-502 AMEND: 31-002 |
| 07/23/09 | AMEND: 120201 | 06/29/09 | AMEND: 11-425, 22-001, 22-003, 22-009, 45-302, 45-303, 45-304, 45-305, 45-306 |
| 07/22/09 | AMEND: 51529 | | |
| 07/20/09 | AMEND: 68201, 68202, 68205, 68206, 68207, 68208, 68209, 68210, 68211, and Appendix 1 to Article 1 of Chapter 47 | | |
| 07/13/09 | AMEND: 66273.3, 66273.39 | | |
| 06/17/09 | AMEND: 926-3, 926-4, 926-5 | | |
| 05/21/09 | AMEND: 2601-1 | | |
| 04/21/09 | AMEND: 51543 | | |